



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA
Business Committee Conference Room-2nd Floor Norbert Hill Center
September 18, 2019
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

September 4, 2019 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Child Support Amendments (pg. 4)
2. Oneida Police Commission Bylaws Amendments (pg. 132)
3. Anna John Resident Centered Care Community Board Bylaws Amendments (pg. 174)
4. Oneida Election Board Bylaws Amendments (pg. 213)
5. Oneida Community Library Board Bylaws Amendments (pg. 254)
6. Oneida Nation Veterans Affairs Committee Bylaws Amendments (pg. 289)
7. Oneida Pow-Wow Committee Bylaws Amendments (pg. 344)

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Judiciary Law Rule No. 1 – Oneida Trial Court Rules (pg. 386)

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
September 4, 2019
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Daniel Guzman King

Others Present: Maureen Perkins, Brandon Wisneski, Clorissa Santiago, Jennifer Falck, Kristen Hooker, Leyle Orosco, Lee Cornelius, Jameson Wilson

I. Call to Order and Approval of the Agenda

David P. Jordan called the September 04, 2019, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda; seconded by Ernest Stevens III. Motion carried unanimously.

II. Minutes to be Approved

Motion by Kirby Metoxen to approve the August 7, 2019, Legislative Operating Committee meeting minutes and forward to the Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

III. Current Business

1. Curfew Law (:41-4:45)

Motion by Jennifer Webster to accept the updated public comment review memorandum, draft, and legislative analysis; seconded by Daniel Guzman King. Motion carried unanimously.

Motion by Jennifer Webster to approve the Curfew Law fiscal impact statement request memorandum and forward to the Finance Committee requesting that a fiscal impact statement be prepared and submitted to the Legislative Operating Committee by September 18, 2019, seconded by Ernest Stevens III. Motion carried unanimously.

2. Sanctions and Penalties Law (4:46-7:43)

Motion by Jennifer Webster to approve the community outreach notice and article for the Sanctions and Penalties Law, and forward to the Kalihwisaks for publication in the September 19, 2019, edition; seconded by Ernest Stevens III. Motion carried unanimously.

IV. New Submissions

V. Additions



VI. Administrative Items

1. Family Court Law Rule No. 1 (7:46-10:49)

Motion by Kirby Metoxen to certify the Family Court Law Rule No. 1 – Family Court Rule and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens III. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Ernest Stevens III to adjourn the September 04, 2019, Legislative Operating Committee meeting at 9:18 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.



Legislative Operating Committee
September 18, 2019

Child Support Law Amendments

Submission Date: 3/7/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a

Summary: *This item was submitted to the LOC by the Child Support Agency's attorney. Currently the Child Support Law is accompanied by two rules. The Child Support Agency want to create more rules and proposed amending the law to include expanded rulemaking authority.*

3/7/18LOC: Motion by Kirby Metoxen to add the Child Support Amendments to the active files list as a high priority and assign David P. Jordan as the sponsor; seconded by Daniel Guzman King. Motion carried unanimously.

4/5/18: *Work Meeting.* Present: Trina Schuyler, Lisa Peck, Clorissa Santiago, Brandon Wisneski, Michelle Gordon. The purpose of this work meeting was to review potential amendments to the Child Support law.

4/18/18: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Laura Laitinen-Warren. The purpose of this work meeting was to discuss the Child Support Department's request for amendments, and determine if administrative rulemaking should be utilized. The drafting attorney will schedule a meeting with the LOC and the Child Support Department to begin discussing policy.

5/17/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting was to discuss and determine specific policy amendments the Child Support Department is seeking, and to discuss and determine a plan to move this legislative item forward.

6/8/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon, Hon. Marcus Zielinski. The purpose of this work meeting was to begin discussing the reality of implementing bench warrants and other enforcement mechanisms.

Work Meeting. Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting is to begin discussing the potential amendments the Child Support Department wants the LOC to consider.

6/22/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck. The purpose of this work meeting was to continue discussing potential amendments to the Child Support law.

7/13/18: *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Mike Hoelt. The purpose of this work meeting was to continue discussing potential amendments to the Child Support law.

- 8/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon, Hon. Marcus Zielinski, Hon. Robert Collins III, Rich Vanboxtel, Eric Boulanger. The purpose of this work meeting was to discuss the potential of utilizing bench warrants in regard to child support matters.
- 8/17/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck, Michelle Gordon. The purpose of this work meeting was to continue discussing potential amendments to the review, review requested data regarding enforcement of child support, and determine next steps to moving this legislative item forward.
- 9/18/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Lisa Peck. The purpose of this work meeting was to continue discussing potential amendments to the law.
- 10/12/18:** *Work Meeting:* Present: Brandon Wisneski, Trina Schuyler. The purpose of this work meeting was to prepare for and discuss an upcoming work meeting with the LOC.
- 10/26/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch. The purpose of this work meeting was to review the power point and handouts for the upcoming meeting with the LOC.
- 10/31/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman, Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Trina Schuyler. During this work meeting Trina gave PowerPoint presentation on Oneida's Child Support Department. The LOC was then presented with policy considerations for proposed amendments regarding enforcement tools and modification of a child support order for an incarcerated parent. The LOC considered the proposed ideas, and directed the LRO to move forward pursuing research and drafting.
- 11/9/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch. The purpose of this work meeting was to discuss the LOC's decisions regarding potential amendments, plan the next steps for moving forward, and plan an upcoming meeting with OPD.
- 12/6/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to review drafted enforcement tools language and determine what information needs to be discussed with OPD in an upcoming work meeting scheduled for 12/10/18.
- 12/10/18:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, Eric Boulanger. The purpose of this work meeting was to review drafted enforcement tools language and determine what information needs to be included in the Law. The LRO staff will bring the information collected during this work meeting to the LOC for their consideration.
- 12/19/18:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Ernest Stevens III, Jennifer Falck, Clorissa Santiago, Brandon Wisneski. The purpose of this work meeting was to discuss the 12/10/18 work meeting with Child Support and OPD, and reconsider policy considerations regarding enforcement tools.
- 1/4/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to discuss the LOC's recent decision to not pursue the addition of proposed enforcement tools, and to begin reviewing the draft from the beginning to discuss other potential amendments.

- 2/1/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to continue reviewing the law line by line to discuss potential amendments.
- 3/1/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, Porsche Skenandore-Wheelock. The purpose of this work meeting was to finish reviewing the law line by line to discuss potential amendments. LRO will update the draft with all the proposed revisions.
- 4/5/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Porsche Skenandore-Wheelock. The purpose of this work meeting was to review the updated draft to ensure it adequately reflects decisions that were made regarding proposed amendments to the law.
- 4/30/19:** *Work Meeting.* Present: Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Porsche Skenandore-Wheelock. The purpose of this work meeting was to continue reviewing the updated draft to ensure it adequately reflects the decisions and recommendations that were made regarding the proposed amendments to the law. Department will continue to review the proposed language for compliance, and we will finish the review of the last portion of the draft during the next meeting.
- 5/16/19:** *Work Meeting.* Present: Jennifer Falck, Clorissa Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon, JoAnne House, Tsyoshaht Delgado. The purpose of this work meeting was to complete the review of the updated draft to ensure it adequately reflects the decisions and recommendations that were made regarding the proposed amendments to the law. LRO will now update the draft and bring it to the LOC for review and consideration.
- 7/17/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to begin reviewing and making decisions to the proposed amendments to the Law.
- 7/18/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to continue reviewing and making decisions as to the proposed amendments to the Law.
- 7/25/19:** *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Kirby Metoxen, Daniel Guzman King, Ernest Stevens III, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski. The purpose of this work meeting was to continue reviewing and making decisions as to the proposed amendments to the Law.
- 8/7/19 LOC:** Motion by Ernest Stevens III to have one more work session between the Legislative Operating Committee, Legislative Reference Office and the Child Support Agency; seconded by Kirby Metoxen. Motion carried unanimously.
- 8/20/19:** *OBC Work Session.* Present: Tehassi Hill, Patricia King, David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jo Anne House, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Melinda Danforth, Candice Skenandore, Lisa Liggins, Brian Doxtator. The purpose of this meeting was to discuss potential use of incarceration for child support. OBC designated a team to include representatives from Self Governance, Intergovernmental Affairs, Oneida Police Department, Oneida Law Office, and the Judiciary to work on this issue and report to the OBC during OBC work sessions every three months.

8/21/19: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Jennifer Falck, Clorissa N. Santiago, Brandon Wisneski, Trina Schuyler, Tami Busch, Michelle Gordon. The purpose of this work meeting was to fulfill the August 7, 2019 directive and allow the Agency one final work meeting to discuss potential amendments.

Next Steps:

- Approve the updated draft and legislative analysis.
- Approve the public meeting packet and forward the amendments to the Child Support law to a public meeting to be held on October 17, 2019.

Title 7. Children, Elders and Family - Chapter 704
shakoti'nukú·lale? latiksashúha?
They watch over the children
CHILD SUPPORT

704.1. Purpose and Policy	704.10. Modification of a Child Support Order
704.2. Adoption, Amendment, Repeal	704.11. Modification of a Child Support Order for an Incarcerated Parent
704.3. Definitions	704.12. Compliance Plan
704.4. Jurisdiction	704.13. Enforcement of an Order
704.5. Initiating an Action for Child Support	704.14. Alternative Payment Plans
704.6. Child Support Hearing Procedures	704.15. Administrative Enforcement Action
704.7. Determining the Child Support Obligation	704.16. Family Court Enforcement Action
704.8. Determining the Child Support Obligation in Special Circumstances	704.17. Full Faith and Credit for Foreign Child Support Orders
704.9. Child Support Order	704.18. Right of Appeal

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704.1. Purpose and Policy

704.1-1. *Purpose.* The purpose of this law is to:

- (a) Establish the legal responsibility of parents to provide financially for their children's general well-being;
- (b) Make support payments more equitable by ensuring consistent treatment of persons in similar circumstances;
- (c) Make support payments based on the real earning capability of parents; and
- (d) Improve the efficiency of child support establishment and enforcement.

704.1-2. *Policy.* It is the policy of this law to:

- (a) establish an adequate standard of support for children whose paternity has been established or acknowledged;
- (b) encourage the use of ~~voluntary agreements~~stipulations to resolve disputes over child support obligations; and
- (c) limit the use and disclosure of personal information received or maintained by the Nation's Family Court and/or the Oneida Nation Child Support Agency in order to protect the privacy rights of all parties and children who are involved in proceedings or actions under this law.

704.2. Adoption, Amendment, Repeal

704.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-24-09-B and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C, BC-08-13-14-E, and BC-__-__-__-__.

704.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

704.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

704.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

704.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

33 **704.3. Definitions**

34 704.3-1. This section shall govern the definitions of words and phrases used within this law. All
35 words not defined herein shall be used in their ordinary and everyday sense.

36 (a) “Administrative enforcement action” means enforcement action taken by the Oneida
37 Nation Child Support Agency to enforce a child support order without obtaining an order
38 from the Family Court.

39 (b) “Agency” means the Oneida Nation Child Support Agency established to administer
40 and supervise the Nation’s child support enforcement program.

41 (c) “Alternative payment plan” means a negotiated agreement between the Agency and an
42 obligor, or an order set by the Family Court, to establish terms and conditions for the
43 payment of arrears.

44 (d) “Basic support costs” means food, shelter, clothing, transportation, personal care, and
45 incidental recreational costs.

46 (e) “Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding
47 holidays recognized by the Nation.

48 (f) “Child” means a ~~natural~~biological or adopted child of the obligor under the age of
49 eighteen (18), or any person who is less than nineteen (19) years old if he or she is pursuing
50 a high school diploma or its equivalent from an accredited course of instruction.

51 (g) “Child support” means the total financial obligation a parent has towards his or her
52 child as established through judicial and/or administrative processes.

53 (h) “Child Support Obligation of Low-Income Payers Schedule” means the Wisconsin
54 Department of Children and Families Child Support Obligation of Low-Income Payers at
55 the Federal Poverty Guidelines, found in DCF ~~105~~150 Appendix C.

56 (i) “Child support order” means a judgment of the Family Court or a court of competent
57 jurisdiction ordering payment of child support which provides monetary support, health
58 care, arrearages, or reimbursement, and which may include related costs and fees, interest
59 and penalties, income withholding, attorney’s’ fees and other relief.

60 (j) “Current six (6) month treasury bill rate” means the yield of a U.S. government security
61 with a term of six (6) months.

62 (k) “Custodial parent” means the parent who exercises physical custody of the child
63 pursuant to a custody order, on the basis of agreement between the parents or in the absence
64 of one parent. A legal guardian with primary physical custody of the child or children and
65 standing in the position of the parent shall have the same rights to child support as a
66 custodial parent.

67 (l) “Employer” means any individual, business, government, institution, or other entity
68 paying wages to one or more employees.

69 (m) “Equity” means the fair market value of property minus the liens on that property with
70 priority over the child support lien.

71 (n) “Equivalent care” means a period of time during which the parent cares for the child
72 that is not overnight, but is determined by the court to require the parent to assume the
73 basic support costs that are substantially equivalent to what the parent would spend to care
74 for the child overnight. Blocks of time with the child of at least six (6) hours may be
75 considered the equivalent of a half-day if a meal is provided during that time period. Two
76 (2) half-day blocks may be considered the equivalent of an overnight.

77 (o) “Family Court” means the branch of the Nation’s Judiciary that is designated to handle
78 all matters related to the family and/or children.

79 (p) “Gross income” means any form of payment due to an individual regardless of source,
80 including, but not limited to:

- 81 (1) Salary and wages, including overtime pay;
- 82 (2) Interest and investment income;
- 83 (3) Social Security disability and old age insurance benefits under 42 U.S.C. §401
84 to 433;
- 85 (4) Net proceeds resulting from worker’s compensation or other personal injury
86 awards intended to replace income;
- 87 (5) Unemployment insurance;
- 88 (6) Income continuation benefits;
- 89 (7) Voluntary deferred compensation and employee contributions to the following:
90 employee benefit plan, profit-sharing, pension or retirement account;
- 91 (8) Military allowances and veterans disability compensation benefits;
- 92 (9) Undistributed income of a corporation or any partnership in which the parent
93 has an ownership interest sufficient to individually exercise control or to access the
94 earnings of the business, unless the income included is an asset;
- 95 (10) Per capita distribution payments;
- 96 (11) Lease or rental income;
- 97 (12) Prizes over one thousand dollars (\$1,000); and
- 98 (13) All other income, whether taxable or not, except that gross income does not
99 include any of the following:

- 100 (A) Child support;
- 101 (B) Foster care payments;
- 102 (C) Kinship care payments;
- 103 (D) Public assistance benefits, except that child care subsidy payments shall
104 be considered income to a child care provider;
- 105 (E) Food stamps;
- 106 (F) Public assistance or financial hardship payments paid by a county or a
107 Nation;
- 108 (G) Supplemental Security Income under 42 U.S.C. §1381 to 1383(f) and
109 state supplemental payments; or
- 110 (H) Payments made for social services.

111 ~~(q)~~ “(q) “Guardian ad litem” means a person appointed by the Family Court to appear at any
112 peacemaking, mediation, or hearing and tasked with representing the best interest of the
113 person appointed for.

114 ~~(r)~~ “(r) “Immediate family member” means an individual’s husband, wife, mother, father, step-
115 mother, step-father, son, daughter, step-son, step-daughter, brother, sister, step-brother,
116 step-sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-
117 law, brother-in-law or sister-in-law and any of the these relations attained through legal
118 adoption.

119 ~~(s)~~ “(s) “Income withholding” means the process whereby a court order, Family Court order,
120 or voluntary wage assignment directs an employer, bank, or agent holding monies or
121 property of an obligor, to make payments or deliver property to satisfy a child support
122 obligation.

123 ~~(t)~~ “(t) “Intact family” means a family in which the child or children and the obligor reside in
124 the same household and the obligor shares his or her income directly with the child or
125 children and has a legal obligation to support the child or children.

- 126 (tu) “Legally incompetent adult” means a person at least eighteen (18) years old who has
127 been declared incompetent by a court of competent jurisdiction because he or she is
128 temporarily or permanently impaired to the extent that the person lacks sufficient
129 understanding to make or communicate responsible personal decisions.
- 130 (uv) “Lien amount” means the difference between the monthly amount of support due and
131 the arrears in a case.
- 132 (vw) “Lien docket” means the registry kept by the State of Wisconsin containing the names
133 of people who owe past-due child support.
- 134 (wx) “Low-income obligor” means an obligor for whom the Family Court uses the
135 monthly support amount provided in the schedule in the Child Support Obligation of Low-
136 Income Payers Schedule based on the Family Court’s determination that the obligor’s total
137 economic circumstances limit his or her ability to pay support at standard percentages and
138 the obligor’s income is at a level set forth in the schedule in the Child Support Obligation
139 of Low-Income Payers Schedule.
- 140 (xy) “Marital child” means a child born during the marriage of his or her parents. In
141 addition, if the father and mother of a non-marital child enter into a lawful marriage or a
142 marriage which appears and they believe is lawful, except where the parental rights of the
143 mother were terminated before either of these circumstances, the child becomes a marital
144 child and shall enjoy all of the rights and privileges of a marital child as if he or she had
145 been born during the marriage of the parents. The children of all marriages declared void
146 under the law are nevertheless marital children.
- 147 (yz) “Monthly income” means the obligor’s annual gross income or, if applicable, the
148 obligor’s annual income modified for business expenses; plus the obligor’s annual income
149 imputed based on earning capacity; plus the obligor’s annual income imputed from assets;
150 divided by twelve (12).
- 151 (zaa) “Nation” means the Oneida Nation.
- 152 (abb) “Non-custodial parent” means the parent of a child who does not hold primary care,
153 custody and/or control of a child.
- 154 (bcc) “Non-legally responsible relative” means a relative person connected with a child
155 by blood, marriage, or adoption who assumes responsibility for the care of a child without
156 legal custody, but is not in violation of a court order. A non-legally responsible relative
157 does not include a relative who has physical custody of a child during a court-ordered
158 visitation period.
- 159 (edd) “Obligee” means the person or entity to whom child support is owed.
- 160 (dee) “Obligor” means the person who is obliged to pay child support to the obligee.
- 161 (eff) “Ownership interest” means any personal financial interest.
- 162 (fgg) “Parent” means the natural biological or adoptive parent of the child.
- 163 (ggh) “Payor” means a person or entity with a legal obligation, as an employer, buyer of
164 goods, debtor, or otherwise, to pay an obligor.
- 165 (hhi) “Reservation” means all lands within the exterior boundaries of the Reservation of
166 the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and
167 any lands added thereto pursuant to federal law.
- 168 (ijj) “Serial family obligor” means an obligor with an existing legal obligation for child
169 support who incurs an additional legal obligation for child support in a subsequent family
170 as a result of a child support order.
- 171 (jkk) “Shared-placement obligor” means a parent who has an ordered period of placement
172 of at least twenty-five percent (25%), is ordered by the Family Court to assume the child’s

173 basic support costs in proportion to the time that the parent has placement of the child and
174 is determined to owe a greater support amount than the other parent.

175 ~~(kkll)~~ “Split-placement obligor” means an obligor who has two (2) or more children and
176 who has physical placement of one (1) or more children but not all of the children.

177 ~~(llmm)~~ “Stipulation” means a voluntary agreement between parties concerning some
178 relevant point.

179 ~~(nn)~~ “Substantial change of income” means the obligor has a significant change in his or
180 her finances that would lead to a change in child support of more than fifteen percent (15%)
181 and fifty dollars (\$50.00) per month.

182 ~~(mmoo)~~ “Variable costs” means the reasonable costs above basic support costs incurred
183 by or on behalf of a child, including but not limited to, the cost of child care, tuition, a
184 child’s special needs, and other activities that involve substantial cost.

185 ~~(pppp)~~ “Threshold” means an amount, expressed as either a percentage of the monthly
186 amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed
187 before an administrative enforcement action may be used to enforce a child support order.

188 **704.4. Jurisdiction**

189 704.4-1. The Family Court has jurisdiction over any action brought under this law.

190 704.4-2. *Personal Jurisdiction.* Personal jurisdiction over an individual under this law may be
191 established where one party or a child of the parties is any of the following:

- 192 (a) a member of the Nation;
193 (b) a resident of the Reservation who is also a member of an Indian tribe, band or
194 community which is recognized by a State or the federal government;
195 (c) a resident of the Reservation who is also the biological parent of ~~at~~the child that is
196 enrolled or is eligible for enrollment with the Nation; or
197 (d) an individual who consents to the jurisdiction of the Family Court by one (1) of the
198 following means:

- 199 (1) Filing an action with the Family Court;
200 (2) Knowingly and voluntarily giving written consent to the jurisdiction of the
201 Family Court;
202 (3) Entering a notice of appearance before the Family Court in an action without
203 concurrently preserving the defense of lack of personal jurisdiction or filing a
204 motion to dismiss for lack of personal jurisdiction within thirty (30) days of entering
205 the notice of appearance; or
206 (4) Appearing in an action before the Family Court without asserting the defense
207 of lack of personal jurisdiction.
208

209 704.4-3. Personal jurisdiction over the other party may be established using any method provided
210 by law, including long-arm jurisdiction procedures as provided for in Section 201 of the Uniform
211 Interstate Family Support Act as referred to in 42 U.S.C. §666.

212 704.4-4. *Transfer of Cases from Other Courts.* If personal jurisdiction over the parties has been
213 established under this law, the Family Court has jurisdiction over any action transferred to the
214 Family Court from any court of competent jurisdiction.

215 **704.5. Initiating an Action for Child Support**

216 704.5-1. Every parent has a duty to support each and every child of that parent. A child support
217 order may be obtained from the Family Court by either submitting a ~~voluntary~~
218

219 agreementstipulation to the Family Court for approval or by filing a petition for child support with
220 the Family Court.

221 (a) If a party to the action is a minor or is a legally incompetent adult, the Family Court
222 may appoint a guardian ad litem to represent such party in the action.

223 704.5-2. Initiation of Action by the Agency. For assistance in seekinginitiating a child support
224 order a party may request the services of the Agency or may be referred to the Agency from an
225 entitlement program.

226 ~~704.5-3. Initiation of Action by the Agency.~~

227 (a) Within ~~seven (7) business~~thirty (30) days of receiving a completed application for
228 services or a referral, the Agency shall meet with the custodial parent.

229 (b) Within seven (7) business days of the meeting with the custodial parent, the Agency
230 shall send ~~the non-custodial parent~~ a Letter of Request for Support and Financial Disclosure
231 form to the non-custodial parent.

232 (b) If the non-custodial parent fails to respond to or take action on the Letter of Request
233 for Support and Financial Disclosure form within ten (10) business days, ~~the custodial~~
234 parent, or the Agency ~~when required by federal law,~~ may initiate a hearing in accordance
235 with this law.

236 (c) If the non-custodial parent responds within the required time period after receiving a
237 Letter of Request for Support and Financial Disclosure form, the parties shall attempt to
238 enter into a voluntary agreementstipulation.

239 704.5-3. Initiation of Action by a Party Not the Agency. Any of the following individuals may
240 initiate an action for the establishment of child support at any time by filing a petition with the
241 Family Court:

242 (a) a custodial parent;

243 (b) a child's mother;

244 (c) a child's father;

245 (d) a child's guardian ad litem;

246 (e) a child's non-legally responsible relative; or

247 (f) a legally incompetent adult's guardian ad litem.

248 704.5-4. ~~Voluntary Agreement~~Stipulation. The parties may enter into a voluntary
249 agreementstipulation at any time as to the level of the child support obligation.

250 (a) The Agency shall assist parties in reaching a voluntary agreementstipulation upon
251 request or when the parties are referred to the Agency by an entitlement program. Parties
252 may also submit a voluntary agreementstipulation to the Family Court for approval without
253 the Agency's assistance.

254 (b) In order for a voluntary agreementstipulation to be valid the following conditions shall
255 be met:

256 (1) The agreementstipulation shall be in writing, signed, and notarized;

257 (2) If the parties deviate from the percentage standards, the agreementstipulation
258 shall state the amount of support that would have been ordered by the percentage
259 standards and the reasons for deviating from the percentage standards;

260 (3) All parties shall sign the agreementstipulation free of duress and coercion; and

261 (4) The Family Court shall make written findings that the agreementstipulation is
262 appropriate, using the criteria for deviating from standard percentages as a
263 guideline, if applicable.

264 (c) After the agreementstipulation is approved and filed by the Family Court, it shall have
265 the same force and effect as an order issued by the Family Court. The obligation of the

obligor to pay child support shall commence on the date specified in the agreement, but no later than the date the agreement stipulation is approved and filed by the Family Court.

704.5-5. *Petition to Establish Child Support.* If the parties do not enter into a voluntary agreement stipulation, then a petition to establish child support may be filed with the Family Court. The petition to establish child support may be filed as a separate proceeding or in connection with a petition for child custody.

~~(a) Initiating an Action with the Family Court. Any of the following individuals may initiate an action for the establishment of child support by filing a petition with the Family Court:~~

- ~~(1) a custodial parent;~~
- ~~(2) a child's mother;~~
- ~~(3) a child's father;~~
- ~~(4) a child's guardian ad litem;~~
- ~~(5) a child's non-legally responsible relative;~~
- ~~(6) a legally incompetent adult's guardian ad litem; or~~
- ~~(7) the Agency.~~

~~(a)~~ **(a)** *Requirements of the Petition.* The petition to establish child support shall include the following:

(1) The name, date of birth and, address, and tribal affiliation of the petitioner and, respondent, and child for whom support is requested;

(A) If the address of the respondent is unknown, other departments of the Nation shall cooperate with the Family Court, at the Family Court's request, to provide the Family Court with the respondent's address. Any such Family Court requests shall be made in such a way which protects the privacy rights of all parties and children who are involved in proceedings or actions under this law.

~~(B)~~ **(2)** With whom the child currently resides;

(3) When and how paternity was established;

(4) Name and date of birth of other children of the parties, and the child support obligation for those children, if applicable;

(5) Whether either party is receiving state or tribal benefits, and if so, what benefits;

(6) Whether any other action to determine child support has been commenced or is pending in a court of another jurisdiction and whether a child support order has been entered by another court;

(7) Financial information such as the parties' income;

(8) The relief the petitioner is requesting, which shall include, but is not limited to, establishment of support, request for support back to date of filing, and/or any other relief the court may deem just and equitable;

(9) Confidential Petition Addendum. The confidential petition addendum is a separate form which has the parties and the child's name, date of birth and social security number. This form shall be kept separate from the petition and shall be maintained in a confidential file. The form shall be available only to the parties, the parties' attorneys or advocates, the Agency, or any person authorized by the Family Court to have access to the form.

(b) *Nondisclosure of Information in Protected Cases.* Upon a finding, which may be made ex parte, that the health, safety or welfare of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, the Family Court shall order that the address of the child or party, or other identifying

314 information, not be disclosed in a pleading or other document filed in a proceeding under
315 this law.

316 ~~(2) A separate form which has the parties and the child's name, date of birth and~~
317 ~~social security number. This form shall be kept separate from the petition and shall~~
318 ~~be maintained in a confidential file. The form shall be available only to the parties,~~
319 ~~the parties' attorneys or advocates, the Agency, or any person authorized by the~~
320 ~~Family Court to have access to the form.~~

321 (c) *Hearing Date.* Upon receipt of a petition, the Family Court shall schedule a hearing to
322 determine child support to be held at a time after the filing of the petition and consistent
323 with the manner of service.

324 (d) *Notice/Summons.* All parties shall be notified of the petition and of all hearings, and
325 shall be given an opportunity to be heard. ~~Notice initiating an action~~

326 (1) Service of the Summons. The summons, which notices the initiation of an
327 action, shall be served by certified mail (return receipt requested) or in person
328 within fifteen (15) calendar days after the petition is filed with the Family Court.
329 ~~All mailing of notice~~ The summons shall include the Family Court clerk's return
330 address, with a request/notice to file an answer to that address. ~~Subsequent~~ Any
331 notice after the summons shall be served by first-class mail to the recently verified
332 last-known address of the party.

333 (1A) Certified mail. Certified mail sent to a party's most recently verified
334 last-known address but returned because it was unclaimed or refused shall
335 constitute constructive service. Certified mail returned for other reasons
336 shall require service by other methods pursuant to the Oneida Judiciary
337 Rules of Civil Procedure.

338 (2B) Publication. When a responding party cannot be found for personal
339 service after diligent attempts and attempts to serve the responding party by
340 certified mail have failed, the petitioner may ~~ask the Family Court to direct~~
341 ~~the Agency to provide~~ use service by publication. ~~If the request is granted,~~
342 ~~the Agency~~ The publication shall ~~publish the petition~~ be in the Nation's
343 newspaper or a newspaper of general circulation in the county of residence
344 of the respondent, if known. ~~Publication~~ The publication shall be designated
345 as a Legal Notice and any confidential information shall be redacted.

346 (A_i) If service by publication is ~~permitted~~ used and there is
347 insufficient time for notice and answer pursuant to this law, the
348 Family Court shall re-schedule the hearing appropriately and may
349 permit extended time deadlines for default orders and for hearings
350 in order to provide for fair notice and opportunity for the party to
351 respond.

352 (e)-2) Requirements of the Summons and Petition. The summons to be served on
353 the respondent(s), along with the petition, shall include the following notice, in
354 addition to providing a time, place, and date for appearance:

355 (1A) That if he or she chooses not to appear at the hearing or enter a defense
356 to the petition challenging the authority of the Family Court to hear the
357 matter by the date of the hearing, the hearing shall proceed on the basis of
358 the petitioner's evidence;

359 (2B) That a child support order may require the respondent/person found to
360 be the obligor to pay child support until the child reaches eighteen (18) years

361 of age or until the child graduates from high school, or its equivalent, up to
362 age nineteen (19);

363 ~~(3C)~~ That the ~~respondent's~~ person found to be the obligor may have his or
364 her license(s) ~~may be~~ suspended or denied for failure to pay child support,
365 in addition to other enforcement actions;

366 ~~(4D)~~ That the ~~respondent's~~ person found to be the obligor's employer or
367 others with evidence of the ~~respondent's~~ this or her income may be
368 subpoenaed to provide the Family Court with records of his or her earnings;

369 ~~(5E)~~ That if the ~~respondent~~ person found to be the obligor is unemployed,
370 it shall still be determined that he or she is able to provide some degree of
371 child support and an order of support shall be calculated according to this
372 law unless the Family Court makes written findings ordering otherwise; and

373 ~~(6F)~~ That any answer to the petition shall be filed with the Family Court
374 within twenty (20) calendar days of the date of service of the petition, and
375 a copy served on the other party.

376 ~~(f)~~ *Answers.* Answers shall be filed with the Family Court and served on the petitioner
377 within twenty (20) calendar days of the date of service of the petition in accordance with
378 the Nation's laws and policies governing civil procedure.

379 ~~(g)~~ *Subpoenas.* Upon request of either party, the Family Court shall issue subpoenas to
380 any person in possession of relevant information to appear or produce documents to the
381 Family Court. Failure to comply with such a subpoena may be punishable as contempt.
382

383 **704.6. Child Support Hearing Procedures**

384 704.6-1. The factual determinations made at a hearing shall ~~be~~ include, but is not limited to, the
385 income and expense information necessary to determine the appropriate level of support according
386 to this law.

387 704.6-2. The Family Court may utilize discovery procedures and contempt powers, as authorized
388 by any law, policy, or rule of the Nation to obtain information relevant to the establishment or
389 enforcement of child support. These procedures may include the following:

- 390 (a) Issue subpoenas requiring necessary and relevant parties to appear in person and
391 provide testimony;
- 392 (b) Issue subpoenas requiring the production of evidence;
- 393 (c) Obtain information about property or assets to assess its value or funding source for
394 lien or seizure actions;
- 395 (d) Obtain information about the income of any party to the action; and/or
- 396 (e) Issue contempt findings for failure to comply with the lawful order of the Family Court.

397 704.6-3. Both parties have the right to representation by an attorney and/or advocate at his or her
398 own expense. The Nation shall not be required to pay for any fees and/or expenses incurred by any
399 party in connection with proceedings under this law.

400 704.6-4. *Temporary Orders.* At any time after a child's parentage has been established, the Family
401 Court may make a temporary order for the payment of child support and the child's health care
402 expenses. Before making a temporary order, the Family Court shall consider ~~those~~ all factors that
403 the Family Court is required to consider when granting a final child support order. If the Family
404 Court makes a temporary child support order that deviates from the amount of support that would
405 be required by using the percentage standard, the requirements of section 704.7-8 shall be
406 complied with.

407 704.6-5. *Default.* If the respondent fails to appear at the hearing upon a showing of valid service
408 and the petitioner presents evidence of the obligation by the absent party, a child support order
409 shall be entered pursuant to the evidence.

410 704.6-6. *Hearings and Records Closed.* Child support proceedings shall be closed to any person
411 other than those necessary to the action or proceeding. Records of child support cases shall remain
412 confidential and shall only be viewed by the parties, the legal guardian of a party who is a minor,
413 the parties' attorney or advocate, guardian ad litem, Judges and staff assigned to the case, and those
414 other persons who first obtain a written release from a party to view material contained in the
415 record.

416 **704.7. Determining the Child Support Obligation**

417
418 704.7-1. The Family Court shall determine child support payments by using the percentage
419 standards established in section 704.7-2 of this law, except as provided elsewhere in this law. The
420 obligor's monthly income shall be considered in determining his or her child support obligation.

421 704.7-2. *Percentage Standards to Determine the Amount of Child Support.*

422 (a) The following percentages shall be applied to the portion of an obligor's monthly
423 income available for child support that is less than seven thousand dollars (\$7,000):

- 424 (1) seventeen percent (17%) for one (1) child;
- 425 (2) twenty-five percent (25%) for two (2) children;
- 426 (3) twenty-nine percent (29%) for three (3) children;
- 427 (4) thirty-one percent (31%) for four (4) children; and
- 428 (5) thirty-four percent (34%) for five (5) or more children.

429 (b) The following percentages shall be applied to the portion of an obligor's monthly
430 income available for child support that is greater than or equal to seven thousand dollars
431 (\$7,000) and less than or equal to twelve thousand five hundred dollars (\$12,500):

- 432 (1) fourteen percent (14%) for one (1) child;
- 433 (2) twenty percent (20%) for two (2) children;
- 434 (3) twenty-three percent (23%) for three (3) children;
- 435 (4) twenty-five percent (25%) for four (4) children; and
- 436 (5) twenty-seven percent (27%) for five (5) or more children.

437 (c) The following percentages shall be applied to the portion of an obligor's monthly
438 income available for child support that is greater than twelve thousand five hundred dollars
439 (\$12,500):

- 440 (1) ten percent (10%) for one (1) child;
- 441 (2) fifteen percent (15%) for two (2) children;
- 442 (3) seventeen percent (17%) for three (3) children;
- 443 (4) nineteen percent (19%) for four (4) children; and
- 444 (5) twenty percent (20%) for five (5) or more children.

445 704.7-3. *Determining Income Modified for Business Expenses.* In determining an
446 obligor's parent's monthly income, the Family Court may adjust an obligor's parent's gross income
447 as follows:

- 448 (a) Adding wages paid to dependent household members.
- 449 (b) Adding undistributed income that the Family Court determines is not reasonably
450 necessary for the growth of the business. The obligor parent shall have the burden of proof
451 to show that any undistributed income is reasonably necessary for the growth of the
452 business.

453 (c) Reducing gross income by the business expenses that the Family Court determines are
454 reasonably necessary for the production of that income or operation of the business and
455 that may differ from the determination of allowable business expenses for tax purposes.

456 704.7-4. *Determining Income Imputed Based on Earning Capacity.* When ~~an obligor's~~ parent's
457 income is less than the ~~obligor's~~ parent's earning capacity or is unknown, the Family Court may
458 impute income to the ~~obligor~~ parent at an amount that represents the ~~obligor's~~ parent's ability to
459 earn.

460 (a) The ~~obligor's~~ parent's ability to earn may be based on the ~~obligor's~~ parent's:

461 (1) education, training, and recent work experience;

462 (2) earnings during previous periods;

463 (3) current physical and mental health;

464 (4) history of child care responsibilities as the parent with primary physical
465 placement; and

466 (5) the availability of work in or near the obligor's community.

467 (b) If evidence is presented that due diligence has been exercised to ascertain information
468 on the ~~obligor's~~ parent's actual income or ability to earn and that information is unavailable,
469 the Family Court may impute to the ~~obligor~~ parent the income that a person would earn by
470 working thirty-five (35) hours per week for the federal minimum hourly wage. In addition
471 to imputed income, the Family Court may order the ~~non-custodial~~ parent to search for a
472 job or participate in a work experience and job training program.

473 (c) If ~~an obligor's~~ parent has gross income or income modified for business expenses below
474 his or her earning capacity, the income imputed based on earning capacity shall be the
475 difference between the ~~obligor's~~ parent's earning capacity and the ~~obligor's~~ parent's gross
476 income or income modified for business expenses.

477 704.7-5. *Determining Income Imputed from Assets.*

478 (a) The Family Court may impute a reasonable earning potential to ~~an obligor's~~ parent's
479 assets if the Family Court finds both of the following:

480 (1) The ~~obligor~~ parent has ownership and control over any real or personal property,
481 including but not limited to, life insurance, cash and deposit accounts, stocks and
482 bonds, business interests, net proceeds resulting from worker's compensation or
483 other personal injury awards not intended to replace income, and cash and corporate
484 income in a corporation in which the obligor has an ownership interest sufficient to
485 individually exercise control and the cash or corporate income is not included as
486 gross income.

487 (2) The ~~obligor's~~ parent's assets are underproductive and at least one (1) of the
488 following applies:

489 (A) The ~~obligor~~ parent has diverted income into assets to avoid paying child
490 support.

491 (B) Income from the ~~obligor's~~ parent's assets is necessary to maintain the
492 child or children at the standard of living they would have had if they were
493 living with both parents.

494 (b) The Family Court shall impute income to assets by multiplying the total net value of
495 the assets by the current six (6) month treasury bill rate or any other rate that the Family
496 Court determines is reasonable and subtracting the actual income from the assets that were
497 included as gross income.

498 704.7-6. *Adjustment for Child's Social Security Benefits.* The Family Court may consider benefits
499 received by a child under 42 U.S.C. §402(d) based on a parent's entitlement to federal disability
500 or old-age insurance benefits under 42 U.S.C. §401 to 433 and adjust an obligor's child support

501 obligation by subtracting the amount of the child's benefit. In no case may this adjustment require
502 the obligee to reimburse the obligor for any portion of the child's benefit. If the obligor is receiving
503 the child's benefit, the support amount is either the percentage standard applied to the obligor's
504 income or the amount of the child's benefit, whichever is greater.

505 (a) *Determining the Child Support Obligations of Shared-Placement Parent when the*
506 *Child Receives Social Security Benefits.* If the shared-placement guidelines under section
507 704.8-2 apply, the child's benefit is split between the parents in proportion to the amount
508 of time the child spends with each parent. Add the proportion of the child's benefit that
509 represents the proportion of time the child spends with the parent not receiving the benefit
510 to the support obligation of the parent who is receiving the child's benefit. Child support
511 shall be determined as follows:

512 (1) Determine each parent's monthly income available for child support under
513 section 704.7-2. If a parent has one (1) or more previous child support obligations,
514 determine the parent's monthly income available for child support adjusted for the
515 previous obligations as provided in section 704.8-1. Include the parent's federal
516 disability or old age insurance benefits under 42 U.S.C. §401 to 433 in that parent's
517 income, but do not include the child's benefit under 42 U.S.C. §402 (d) in either
518 parent's income.

519 (2) Multiply each parent's monthly income available for child support by the
520 appropriate percentage standard under section 704.7-2.

521 (3) Multiply each amount determined under section 704.7-6(a)(2) by one hundred
522 and fifty percent (150%).

523 (4) Multiply the amount determined for each parent in section 704.7-6(a)(3) by the
524 proportion of time that the child spends with the other parent.

525 (5) Multiply the amount of the child's benefit by the proportion of the time the
526 child spends with the parent who is not receiving the child's benefit.

527 (6) Add the amount in section 704.7-6(a)(5) to the child support obligation
528 calculated in section 704.7-6(a)(4) for the parent who is receiving the child's
529 benefit.

530 (7) Offset the resulting amounts against each other. The parent with the greater
531 child support obligation is the shared-placement obligor. The shared-placement
532 obligor shall pay either the greater of the amount determined in this subsection or
533 the amount determined using the appropriate percentage standard under section
534 704.7-2.

535 704.7-7. *Claiming Children for Tax Purposes.* The Family Court may address who may claim
536 the child for tax purposes or accept a stipulation entered into by the parties regarding children and
537 taxes.

538 704.7-8. *Deviation from the Percentage Standards.* Upon request by a party, the Family Court
539 may modify the amount of child support payments determined by the percentage standards if, after
540 considering the following factors, the Family Court finds by the greater weight of the credible
541 evidence that use of the percentage standards is unfair to the child or to any of the parties:

- 542 (a) The financial resources of the child;
543 (b) The financial resources of both parents;
544 (c) Maintenance received by either party;
545 (d) The needs of each party in order to support himself or herself at a level equal to or
546 greater than the federal poverty line as established under 42 U.S.C. §9902(2);
547 (e) The needs of any person, other than the child, whom either party is legally obligated to
548 support;

- 549 (f) The standard of living the child would have enjoyed if his or her parents were living
550 together;
- 551 (g) The desirability that the custodial parent remain in the home as a full-time parent;
- 552 (h) The cost of day care if the custodial parent works outside the home, or the value of
553 custodial services performed by the custodial parent if the custodial parent remains in the
554 home;
- 555 (i) The award of substantial periods of physical placement to both parents;
- 556 (j) Extraordinary travel expenses incurred in exercising the right to periods of physical
557 placement;
- 558 (k) The physical, mental, and emotional health needs of the child, including any costs for
559 health insurance;
- 560 (l) The child's educational needs;
- 561 (m) The tax consequences to each party;
- 562 (n) The best interests of the child;
- 563 (o) The earning capacity of each parent, based on each parent's education, training and
564 work experience and the availability of work in or near the parent's community; and
- 565 (p) Any other factors which the Family Court in each case determines are relevant.

566 **704.7-9. Past-due and Arrears obligations.**

- 567 (a) A party may request payment of arrears or past-due child support as follows:
- 568 (1) In an action regarding paternity, back to the date of birth of the child or date of
569 application, whichever is later;
- 570 (2) In a child support establishment or modification pursuant to this law, back to
571 the date of application, review, or referral; or
- 572 (3) In an establishment or modification of placement pursuant to an action
573 regarding divorce, annulment and legal separation or child custody, placement, and
574 visitation, back to the date of filing, or as otherwise ordered by the Family Court.
- 575 (b) A payment for arrears or a past-due payment shall be set based on the amount due and
576 the income available to pay current support.
- 577 (c) Once current child support is ended in any manner prescribed by law, child support
578 shall continue to be paid at the same rate, until all arrears or past due child support is paid
579 in full.

580

581 **704.8. Determining the Child Support Obligation in Special Circumstances**

582 **704.8-1. Determining the Child Support Obligation of a Serial-Family Obligor.**

- 583 (a) *Applicability.* This applies only if the support obligation being calculated is for children
584 from a subsequent family or subsequent paternity judgment or acknowledgment. An
585 obligor may not use the provisions of this section as a basis for seeking modification of an
586 existing order based on a subsequently incurred legal obligation for child support.
- 587 (b) *Determination.* For a serial-family obligor, the child support obligation incurred for a
588 marital or non-marital child in a subsequent family as a result of a child support order may
589 be determined as follows:
- 590 (1) Determine the obligor's monthly income.
- 591 (2) Determine the order of the obligor's legal obligations for child support by
592 listing them according to the date each obligation is incurred.
- 593 (A) For a marital child, the legal obligation for child support is incurred on
594 the child's date of birth.

- 595 (B) For a non-marital child, the legal obligation for child support is incurred
596 on the date that paternity is legally established.
- 597 (C) For a non-marital paternal child in an intact family, it is incurred on the
598 date of adoption or the date that paternity is legally established.
- 599 (D) For a non-marital maternal child in an intact family, it is incurred on
600 the child's date of birth.
- 601 (3) Determine the first child support obligation as follows:
- 602 (A) If the obligor is subject to an existing support order for that legal
603 obligation, except a shared-placement order, the support for that obligation
604 is the monthly amount of that order; or
- 605 (B) If the obligor is in an intact family, has primary placement of another
606 child, or is subject to a shared-placement order, the support is determined
607 by multiplying the appropriate percentage for that number of children by
608 the obligor's monthly income.
- 609 (4) Adjust the monthly income by subtracting the support for the first legal
610 obligation from the obligor's monthly income.
- 611 (5) Determine the second child support obligation as follows:
- 612 (A) If the obligor is subject to an existing support order for that legal
613 obligation, except a shared-placement order, the support for that obligation
614 is the monthly amount of that order; or
- 615 (B) If the obligor is in an intact family or is subject to a shared-placement
616 order, the support is determined by multiplying the appropriate percentage
617 for that number of children by the obligor's monthly income.
- 618 (6) Adjust the monthly income a second time by subtracting the support for the
619 second legal obligation from the first adjusted monthly income.
- 620 (7) Repeat the procedure for determining the child support obligation and adjusting
621 the monthly income for each additional legal obligation for child support the serial
622 family obligor has incurred.
- 623 (8) Multiply the appropriate percentage for the number of children subject to the
624 new order by the final adjusted monthly income to determine the new child support
625 obligation.

626 704.8-2. *Determining the Child Support Obligations of Shared-Placement Parents.*

- 627 (a) *Applicability.* The shared-placement formula may be applied when both of the
628 following conditions are met:
- 629 (1) Both parents have periods of placement of at least twenty-five percent (25%)
630 or ninety-two (92) days a year. When calculating periods of placement based on
631 equivalent care, the total number of overnights may exceed three hundred and sixty-
632 five (365). The period of placement for each parent shall be determined by
633 calculating the number of overnights or equivalent care ordered to be provided by
634 the parent and dividing that number by the total number of overnights in a year.
635 The combined periods of placement for both parents shall equal ~~the total number~~
636 ~~of overnights.~~ one hundred percent (100%).
- 637 (2) Each parent is ordered by the Family Court to assume the child's basic support
638 costs in proportion to the time that the parent has placement of the child.
- 639 (b) *Determination.* The child support obligations for parents who meet the requirements
640 for the shared-placement formula may be determined as follows:
- 641 (1) Determine each parent's monthly income.

642 (A) In determining whether to impute income based on earning capacity
643 for an unemployed parent or a parent employed less than full time, the
644 Family Court shall consider benefits to the child of having a parent remain
645 in the home during periods of placement and the additional variable day
646 care costs that would be incurred if the parent worked more.

647 (2) Multiply each parent's monthly income by the appropriate percentage standard.

648 (3) Multiply each amount determined under section 704.8-2(b)(2) by one hundred
649 and fifty percent (150%).

650 (4) Multiply the amount determined for each parent under section 704.8-2(b)(3) by
651 the proportion of the time that the child spends with the other parent to determine
652 each parent's child support obligation.

653 (5) Offset resulting amounts under section 704.8-2(b)(4) against each other. The
654 parent with a greater child support obligation is the shared-placement obligor. The
655 shared-placement obligor shall pay the lesser of the amount determined under this
656 section or the amount determined using the appropriate percentage standard. If the
657 shared-placement obligor is also a low-income obligor, the child support obligation
658 may be the lesser of the amount determined under the shared placement
659 determination or the low-income determination.

660 (6) In addition to the child support obligation determined under section 704.8-
661 2(b)(5), the Family Court shall assign responsibility for payment of the child's
662 variable costs in proportion to each parent's share of physical placement, with due
663 consideration to a disparity in the parents' incomes.

664 (A) The Family Court shall direct the manner of payment of a variable cost
665 order to be either between the parents or from a parent to a third-party
666 service provider.

667 (B) The Family Court shall not direct payment of variable costs to be made
668 to the Agency or the Agency's designee, except as incorporated in the child
669 support order.

670 (7) A change in the child's variable costs shall not in and of itself be considered a
671 substantial change in circumstances sufficient to justify a modification of a
672 judgment or order under section 704.10.

673 *704.8-3. Determining the Child Support Obligations of Split-Placement Parents.*

674 (a) *Applicability.* The split-placement formula may be applied when parents have two (2)
675 or more children and each parent has placement of one (1) or more but not all of the
676 children.

677 (b) *Determination.* The child support obligation for a split-placement parent may be
678 determined as follows:

679 (1) Determine each parent's monthly income.

680 (2) Determine the appropriate percentage standard for the number of total children.

681 (3) Divide the appropriate percentage standard for the number of total children by
682 the total number of children.

683 (4) Multiply the number calculated in section 704.8-3(b)(3) by the number of
684 children placed with each parent.

685 (5) Multiply each parent's monthly income by the number calculated in 704.8-
686 3(b)(4) based on the number of children placed with the other parent to determine
687 each parent's child support obligation; and

688 (6) Offset resulting amounts under section 704.8-3(b)(5) against each other. The
689 parent with a greater child support obligation is the split-placement obligor.

- 690 704.8-4. *Determining the Child Support Obligation of a Low-Income Obligor.*
691 (a) *Applicability.* If an obligor's total economic circumstances limit his or her ability to
692 pay support at the level determined by the standard percentage standards, then the low-
693 income obligor standards found in the Child Support Obligation of Low-Income Payers
694 Schedule may be used.
695 (b) *Determination.* The Family Court may use the monthly support amount provided in
696 the Child Support Obligation of Low-Income Payers Schedule as the support amount for
697 an obligor with ~~per~~ monthly income at a level set forth in the schedule.
698 (1) If an obligor's monthly income is below the lowest income level in the Child
699 Support Obligation of Low-Income Payers Schedule, the Family Court may set an
700 order at an amount appropriate for the obligor's total economic circumstances. This
701 amount may be lower than the lowest support amount in the Child Support
702 Obligation of Low-Income Payers Schedule
703

704 **704.9. Child Support Order**

- 705 704.9-1. *Expression of Ordered Support.* The child support amount shall be expressed as a fixed
706 sum.
707 704.9-2. *Interest on Arrears.* The Nation shall not charge an obligor ordered to pay child support
708 interest on any arrears.
709 704.9-3. *Income Withholding.* The child support order shall provide for immediate income
710 withholding.
711 (a) A copy of the Family Court's income withholding order shall be sent by the Agency to
712 a payor within three (3) business days of the entry of the order of the Family Court by mail,
713 fax, or electronic means.
714 (b) An order to withhold income shall be binding against future payors upon actual notice
715 of the income withholding order through notice by mail, fax, or electronic means.
716 (c) Income shall not be subject to withholding only where:
717 (1) One of the parties demonstrates, and the Family Court finds, that there is good
718 cause not to require income withholding due to one of the following:
719 (A) There is an error in the amount of current or overdue support; or
720 (B) The identity of the obligor is mistaken.
721 (2) The parties reach a written agreement which provides for an alternative
722 arrangement that is approved by the Family Court.
723 (d) No payor shall refuse to honor an income withholding order executed pursuant to this
724 law. A payor shall begin withholding income immediately after notice of an income
725 withholding order made pursuant to this law. Within five (5) business days after the payor
726 pays the obligor, the payor shall send the amount withheld to the Wisconsin Support
727 Collections Trust Fund.
728 (e) A payor shall be liable for one hundred percent (100%) of the child support order, or
729 the amount of money that should have been withheld from the obligor's earnings,
730 whichever is the lesser amount, if the payor:
731 (1) Fails or refuses, after being noticed of an income withholding order, to deduct
732 or promptly remit the amounts of money required in the order;
733 (2) Fails or refuses to submit an answer to the notice of income withholding after
734 being noticed; or
735 (3) Is unwilling to comply with the other requirements of this law.

736 (f) A payor shall not discharge from employment, refuse to employ, or otherwise take
737 disciplinary action against any obligor solely because he or she is subject to income
738 withholding.

739 (1) When the Family Court finds that a payor has taken any of these actions, the
740 payor shall be liable for a civil penalty. Any payor who violates any provision of
741 this paragraph shall be liable in a civil action for reasonable damages suffered by
742 an obligor as a result of the violation, and an obligor discharged or demoted in
743 violation of this paragraph shall be entitled to be reinstated to his or her former
744 position.

745 (2) The statute of limitations for actions under this section shall be one (1) year.

746 (g) A payor who repeatedly fails to comply with an income withholding order as required
747 by this law may be subject to a fine, not to exceed five hundred dollars (\$500), or have its
748 Oneida vendor license revoked or suspended, if applicable, until compliance with this law
749 is assured.

750 (1) The vendor license issuing agency shall comply with the Family Court order to
751 revoke or suspend a vendor license.

752 (h) If income withholding is inapplicable, ineffective or insufficient to ensure payment of
753 child support, the Family Court may require the obligor to establish an account for the
754 purpose of transferring child support payments.

755 (i) The total amount withheld under an income withholding order shall not exceed the
756 maximum amount permitted under section 303(b) of the Consumer Credit Protection Act
757 (15 U.S.C. §1673(b)).

758 (j) Non-Indian off-reservation payors shall be subject to income withholding under 28
759 U.S.C. §1738B.

760 704.9-4. *Conditions of the Order.* The Family Court may require a party, or both parties, to use
761 the services available to him or her to obtain and maintain regular employment and/or job training.

762 704.9-5. *Support Order Notice Requirements.* Each order for child support shall include:

763 (a) An order that the obligor and obligee notify the Agency of any change of address or
764 name change within ten (10) business days of such change; and

765 (b) An order that the obligor notify the Agency and the obligee of any change of employer
766 or substantial change of income within ten (10) business days of the change.

767 704.9-6. *Enforcement of Order.* A child support order under this section is enforceable as
768 contempt.

769 704.9-7. *Collection and Distribution of Child Support.* The Agency shall collect and distribute
770 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

771 704.9-8. *Trust.* The Family Court may protect and promote the best interests of the minor children
772 by setting aside a portion of the child support that either party is ordered to pay in a separate fund
773 or trust for the support, education, and welfare of such children.

774 704.9-9. *Non-Cash Payments.*

775 (a) Non-cash payments may be used to satisfy part or all of a child support order if the
776 parties and the Family Court agree to allow non-cash payments. Non-cash payments shall
777 not be used to fulfill arrears. If non-cash payments are allowed, the order shall:

778 (1) state the specific dollar amount of the support obligation;

779 (2) state the maximum amount (in dollars) of non-cash payment that the obligee
780 will accept;

781 (3) describe the type of non-cash payment that is permitted;

782 (4) provide that non-cash payment cannot be used to satisfy assigned child support
783 obligations.

784 (b) When both parents are in agreement that non-cash payments may be used to satisfy a
785 child support obligation, the non-cash payment may include, but is not limited, to the
786 following:

- 787 (1) Clothing;
- 788 (2) Groceries;
- 789 (3) Child Care;
- 790 (4) Deer/Venison;
- 791 (5) Wood;
- 792 (6) Transportation;
- 793 (7) Skilled trades or services, such as car repairs, lawn care and snow removal;
- 794 and/or
- 795 (8) Gift cards.

796 (c) When a non-cash payment is used to satisfy part or all of a child support order, the
797 obligor and obligee shall submit any forms required by the Agency within the month that
798 the non-cash payment is made. If there are less than five (5) business days left in the month
799 when a non-cash payment is made, the obligor and obligee have five (5) business days to
800 submit any required forms to the Agency. The Agency shall be responsible for applying
801 the non-cash payment towards the child support order during the appropriate month.

802 803 **704.10. Modification of a Child Support Order**

804 704.10-1. *Review of the Child Support Order.* Every two (2) years, the Agency shall conduct a
805 review of the child support order. The Agency shall notify the non-custodial parent, custodial
806 parent, and any interested party that a review of their child support order shall be conducted.

807 704.10-2. *Modification of Child Support Sought by the Agency.* After the two (2) year review is
808 conducted by the Agency, the Agency shall seek an order to modify the child support obligation if
809 there is a substantial change in circumstances, unless otherwise stipulated by the parties. A
810 substantial change in circumstances includes, but is not limited to:

- 811 (a) the child's placement is changed;
- 812 (b) either parent or the child has a significant change in his or her finances that would lead
813 to a change in child support of more than fifteen percent (15%) and fifty dollars (\$50.00)
814 per month;
- 815 (c) the obligee is receiving public assistance benefits and is required to have a current
816 support order in place;
- 817 (d) it has been twenty-four (24) months since the date of the last child support order or
818 revision to the child support order, unless the child support amount is expressed as a
819 percentage; or
- 820 (e) a change has occurred and if the current circumstances had been in place at the time
821 the order was issued, a significantly different order would have been issued.

822 704.10-3. *Modification of Child Support Sought by the Parties.* Either party, not including the
823 Agency, may file a motion for a modification of a child support order at any time based upon a
824 substantial change of circumstances supported by affidavit.

- 825 (a) Such motion shall state why the previous decision should be prospectively modified.
- 826 (b) The motion and affidavit shall be served by the moving party on the responding party
827 by first-class mail to the recently verified last-known address, or by any method provided
828 by law.
- 829 (c) A hearing date shall be scheduled no sooner than ten (10) calendar days after the date
830 of service.

831 704.10-4. An obligor shall not raise a substantial change in circumstances as a reason not to pay
832 a ~~past due reward~~current child support order or arrears. If a child support ~~award~~order becomes
833 unjust due to a substantial change in circumstances of the obligor, the obligor has the duty to file
834 a petition or motion with the Family Court for a ~~changed award~~modification to the child support
835 order at that time.

836

837 **704.11. Modification of a Child Support Order for an Incarcerated Parent**

838 704.11-1. In the event an obligor is incarcerated for one hundred and eighty (180) days or more,
839 the obligor shall have the right to have the Agency review his or her child support order to
840 determine if modification or suspension of the child support order is appropriate. The obligor shall
841 notice the Agency of his or her incarceration.

842 (a) An ordered child support obligation shall be suspended for an incarcerated obligor who
843 has been sentenced to one hundred and eighty (180) days or more and has an income of
844 less than two hundred dollars (\$200) per month.

845 (b) If while incarcerated the obligor's income is two hundred dollars (\$200) or more per
846 month the Agency shall review the order and seek temporary modification of the child
847 support order based on the incarcerated obligor's income, if necessary.

848 (c) Child support obligations shall not be suspended or modified for an obligor who is
849 incarcerated for a criminal offense which includes:

- 850 (1) felony failure to pay support;
851 (2) a crime against a child; and/or
852 (3) a crime against the obligee.

853 (d) Past due child support related debt and/or arrears shall not be suspended or reduced as
854 a result of the obligor's incarceration without stipulation by the parties.

855 704.11-2. *Notification of Review.* Within fifteen (15) business days of the receipt by the Agency
856 of verification of the obligor's incarceration, the Agency shall send out a letter to the parties of the
857 case informing them of the obligor's right to have his or her child support obligation reviewed,
858 and of the Agency's intent to review the current child support order.

859 704.11-3. *Agency Review of Order.* The Agency shall review the obligor's child support order
860 and make one of the following determinations:

861 (a) that the obligor's income while incarcerated is two hundred dollars (\$200) or more per
862 month, and the Agency shall seek temporary modification of the obligor's child support
863 order based on the incarcerated obligor's income, if necessary; or

864 (b) that the obligor's income while incarcerated is less than two hundred dollars (\$200)
865 per month, and the Agency shall seek temporary suspension of the obligor's child support
866 order while incarcerated.

867 704.11-4. *Suspension of Order by the Agency.* If the Agency determines the obligor's income is
868 less than two hundred dollars (\$200) per month while incarcerated, the Agency shall file with the
869 Family Court a Motion and Order to Suspend without a request for a hearing with notice to all
870 parties that the child support order shall be suspended.

871 (a) Either party shall have the right to object to the suspension of the order within ten (10)
872 business days of the date of the notice by filing such objection with the Family Court and
873 providing a copy of the objection to the Agency.

874 (b) If no objection to the suspension is received, the Family Court shall enter the order as
875 proposed.

876 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
877 hearing on the issue.

878 704.11-5. *Modification of Order by the Agency.* If the Agency determines the obligor's income
879 is two hundred dollars (\$200) per month or more while incarcerated, the Agency shall file with the
880 Family Court a Motion ~~and Order to Modify without a request for a hearing with notice to all~~
881 ~~parties with the proposed modification to the child support order~~ to Modify.

882 (a) ~~Either party~~ The Family Court shall ~~have~~ schedule a hearing on the ~~right~~ motion with the
883 Agency providing notice to ~~object to all parties with~~ the proposed modification ~~of~~ to the
884 child support order ~~within~~ by first class mail at least ten (10) business days ~~of the date of~~
885 ~~the notice by filing such objection with the Family Court and providing a copy of the~~
886 ~~objection~~ prior to the Agency hearing.

887 (b) If no objection to the modification is received at the hearing, the Family Court shall
888 enter the order as proposed.

889 ~~(c) Upon receipt of an objection from either party, the Family Court shall schedule a~~
890 ~~hearing on the issue.~~

891 704.11-6. *Modification of the Order by the Incarcerated Parent.* ~~In addition to the responsibility~~
892 ~~of the Agency to review and take action on this matter, the~~ The incarcerated parent may seek
893 modification of his or her own child support order by filing a motion to modify with the Family
894 Court in accordance with section 704.10-3.

895 704.11-7. If during the term of incarceration, the Agency receives notification of a change in the
896 obligor's employment and/or income, the Agency shall review the obligor's order and determine
897 if the obligor's income is two hundred dollars (\$200) or more per month, and whether it is
898 necessary to temporarily modify or suspend the obligor's child support order.

899 (a) If the Agency determines that suspension of the obligor's order is necessary, then the
900 procedure for filing a Motion and Order to Suspend without a request for a hearing
901 described in section 704.11-4 shall be followed.

902 (b) If the Agency determines that modification of the obligor's order is necessary, then the
903 procedure for filing a Motion ~~and Order to Modify without a request for a hearing~~ described
904 in section 704.11-5 shall be followed.

905 704.11-8. *Reinstatement of Prior Order.* Sixty (60) days after the obligor's release from
906 incarceration, the child support order shall be administratively reinstated by the Agency to the
907 previous child support order in effect before the suspension or modification of the order based on
908 the obligor's incarceration.

909 (a) The Agency shall send notice to both parties of the obligor's release from incarceration
910 and the intent of the Agency to reinstate the original order.

911 ~~(b) The parties shall have ten (10) business days from the date of the notice from the~~
912 ~~Agency to file an objection to the reinstatement of the child support order with the Family~~
913 ~~Court, and to provide a copy of the objection to the reinstatement to the Agency.~~

914 ~~(c) If no objection is received, the Family Court shall enter the proposed order.~~

915 ~~(d) Upon receipt of an objection from either party, the Family Court shall schedule a~~
916 ~~hearing on the issue.~~

917 ~~704.11-9. If after release from incarceration the obligor's probation or extended supervision is~~
918 ~~revoked, and he or she is sentenced for a subsequent one hundred and eighty (180) days or more~~
919 ~~the Agency shall use the provisions of this section to determine if the suspension or modification~~
920 ~~of the obligor's child support order based on the incarceration of the obligor is appropriate.~~

921 922 **704.12. Compliance Plan**

923 704.12-1. If at any time the ~~Agency believes an~~ obligor is, or may become, non-compliant with
924 his or her child support order by failing to pay support as ordered or meeting a required obligation

925 or action, the Agency shall ~~attempt to engage~~meet with the obligor ~~through the development of~~to
926 develop a compliance plan.

927 704.12-2. ~~A~~An Appointment Letter ~~of Non-Compliance~~ may be sent by the Agency at any time
928 deemed appropriate, but the Agency shall send out the Appointment Letter ~~of Non-Compliance~~ at
929 least thirty (30) days prior to the initiation of any enforcement action.

930 (a) The Letter ~~of Non-Compliance~~ shall ~~set out the conditions the party has failed to~~
931 ~~comply with, outline the enforcement actions that may be taken, and~~ request the party meet
932 with the Agency to discuss barriers to payment and how to avoid future enforcement action.

933 (b) If the party does not respond to the Letter within five (5) business days after receipt of
934 the letter, the Agency may proceed with appropriate enforcement action.

935 (c) If the party obligor responds to the Letter, the Agency shall interview the party to
936 determine the reasons and barriers for the non-compliance and create a compliance plan.
937 The compliance plan may include an increase in payment and/or any activity that is
938 necessary to ~~ensure~~assist in payment, including programs that focus on:

- 939 (1) Employment and training;
- 940 (2) Social service and mental health;
- 941 (3) Physical and learning disabilities;
- 942 (4) Tribal traditions and customs;
- 943 (5) Family counseling and parenting; and
- 944 (6) Any other program deemed necessary.

945 (d) If the party successfully completes the compliance plan, no further enforcement action
946 is necessary. However, if the party fails to complete the compliance plan, the Agency shall
947 proceed with appropriate enforcement action.

948 **704.13. Enforcement of an Order**

949 704.13-1. An obligor may be subject to enforcement actions when the obligor is at least one (1)
950 month delinquent in paying his or her child support obligation. Enforcement actions may include
951 administrative enforcement action by the Agency and enforcement action by the Family Court.

952 (a) An obligor shall be provided with notice of an enforcement action of at least thirty (30)
953 days before an enforcement action is used, unless another timeline is specified.

954 (b) An enforcement action shall be stayed and/or suspended after notice is given to the
955 obligor if the obligor pays the debt in full or enters into, and maintains, an alternative
956 payment plan and/or a compliance plan with the Agency.

957 704.13-2. *Agency Responsibilities in the Enforcement of an Order.* The Agency shall have the
958 following responsibilities in the enforcement of an order:

- 959 (a) Track and document the progress of an obligor who is under an enforcement action;
- 960 (b) Take additional enforcement action when an obligor fails to comply with a previous
961 enforcement action;
- 962 (c) Document the reasons why an enforcement action is not taken, when such action would
963 have been appropriate under the circumstances; and
- 964 (d) ~~Refund~~Assist in refunding amounts that were improperly withheld, terminate income
965 withholding when appropriate, and allocate amounts across multiple cases.

966 704.13-3. *Notice to the Obligor of Delinquency.* In the event that an obligor owes a debt equal to
967 or exceeding the monthly amount due, the Agency shall send a notice of delinquency to the obligor.
968 The notice of delinquency shall inform the obligor of the following:

- 969 (a) The total amount of the delinquency; and
 - 970 (b) The enforcement action that may be taken as a result of the delinquency.
- 971

972 704.13-4. *Notice to the Obligor of Enforcement Action.* After the obligor has been noticed of his
973 or her delinquency, and at least ~~thirty (30)~~twenty (20) days prior to an enforcement being used
974 against an obligor, the Agency shall send a notice of enforcement action to the obligor.

- 975 (a) The notice of enforcement action shall inform the obligor of the following:
- 976 (1) The total amount of the delinquency;
 - 977 (2) The enforcement action that may be taken as a result of the delinquency;
 - 978 (3) The obligor may request, in writing to the Agency, to negotiate an alternative
979 payment plan with the Agency within ten (10) business days after the notice in order
980 to stay any enforcement action;
 - 981 (4) The obligor has ten (10) business days after the notice of enforcement action to
982 file an objection with the Agency presenting good cause why an arrears payment
983 or other enforcement action should not be implemented. The only allowable
984 objections are:
 - 985 (A) There is an error in the amount of current or overdue support; or
 - 986 (B) The identity of the obligor is mistaken.

987 (b) If the obligor does not file an objection or request to negotiate an alternative payment
988 plan:

- 989 (1) the enforcement action shall be taken; and/or
- 990 (2) an income withholding order, or revised order if one is already in place, shall
991 be imposed on the payor. No more than an additional twenty percent (20%) of the
992 current support payment order can be withheld to satisfy the delinquency provided
993 that the total amount withheld does not exceed forty percent (40%) of the obligor's
994 monthly income.

995 (c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any
996 enforcement action is taken.

997 704.13-5. *Use of Mail for Notices.* The Agency shall send notices related to the delinquency of
998 an obligor and enforcement of a child support order by mail to the last-known mailing address
999 provided by the obligor.

1000 (a) If the notice is returned, the Agency shall send notice to the obligor using the current
1001 employer mailing address provided by the obligor.

1002 (b) If the notice to the obligor mailed to the obligor's employer is returned, the Agency
1003 shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's
1004 current mailing address.

1005 (c) If those resources are used for a period of ~~sixty (60)~~thirty (30) days and a verified
1006 mailing address has not been identified, the Agency may proceed with the administrative
1007 enforcement action.

1008 704.13-6. *Notice to the Obligee of Enforcement Proceedings.* The Agency shall provide written
1009 notice to the obligee when an enforcement action has been initiated against the obligor or when
1010 the obligor requests a hearing and the hearing has been scheduled. The notice to the obligee shall
1011 be sent at the same time notice is sent to the obligor.

1012 704.13-7. *Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest in*
1013 *Property.* The Agency shall provide notice related to the seizure of property to any individual,
1014 other than the obligor, with a recorded ownership interest in property subject to seizure. The
1015 individual may request a hearing for a determination of the proportion of the value of the property
1016 that is attributable to his or her net contribution to the property. The hearing shall be requested
1017 within thirty (30) days after the notice was received by the individual.

1019 **704.14. Alternative Payment Plans**

1020 704.14-1. *Applicability of Alternative Payment Plans.* When an obligor is subject to
1021 administrative enforcement action, he or she may negotiate an alternative payment plan with the
1022 Agency.

1023 704.14-2. *Negotiation of an Alternative Payment Plan After Receiving Notice of an Enforcement*
1024 *Action.*

1025 (a) In order to negotiate an alternative payment plan, an obligor shall submit a written
1026 request to the Agency.

1027 (1) A written request to negotiate an alternative payment plan received by the
1028 Agency within ten (10) business days after the date of notice shall stay any
1029 administrative enforcement action.

1030 (2) If a written request to negotiate an alternative payment plan is received by the
1031 Agency more than ten (10) business days after the date of notice, administrative
1032 enforcement action may be taken, as long as the requirements for staying or
1033 suspension of administrative enforcement actions are met.

1034 (b) An obligor may negotiate a plan with the Agency to have a license ~~issued or renewed~~
1035 ~~after it has been restricted, limited, suspended or refused.~~ suspension lifted.

1036 (c) *Hearings for Negotiations of an Alternative Payment Plan.* The obligor may submit a
1037 written request for a hearing with the Family Court regarding negotiations of an alternative
1038 payment plan in the following circumstances:

1039 (1) The obligor and the Agency have agreed to terms of a plan, but the obligor
1040 wants the Family Court to consider the reasonableness of the plan.

1041 (A) The obligor may submit this written request for a hearing on the
1042 reasonableness of the plan within ten (10) business days after the terms of
1043 the plan are agreed upon.

1044 (2) The obligor and the Agency are unable to reach agreement on the terms of a
1045 plan.

1046 (A) The Family Court may order a plan by setting conditions and/or
1047 payments in the amounts and at the times it considers reasonable.

1048 (d) *Proceeding with Administrative Enforcement Actions.* The Agency may continue with
1049 the administrative enforcement action if:

1050 (1) the obligor and the Agency are unable to negotiate a plan;

1051 (2) the Family Court determines that the plan is not reasonable; and/or

1052 (3) the Family Court does not order a plan.

1053 704.14-3. *Disclosure of Income and Assets.* The request to negotiate a plan shall include an
1054 agreement by the obligor to provide the Agency with a full disclosure of income and assets
1055 available. The obligor shall provide complete income and assets information to the Agency within
1056 five (5) business days of the request to negotiate a plan.

1057 704.14-4. *Terms of an Alternative Payment Plan.*

1058 (a) An alternative payment plan may include a lump-sum payment, or periodic payments
1059 on the arrears, or both, subject to the following standards:

1060 (1) The sum of any periodic payment established under the plan and any other
1061 payment of support ordered by the Family Court, when subtracted from the
1062 obligor's gross income, may not leave the obligor below one hundred percent
1063 (100%) of the poverty line established under 42 U.S.C. §9902 (2) unless the obligor
1064 agrees otherwise.

1065 (2) When establishing an alternative payment plan, the Agency shall consider the
1066 factors used by the Family Court in determining whether the use of the percentage
1067 standard is unfair to the child or any of the parties.

1068 (b) Periodic payments under the plan may be made through income withholding in
1069 amounts in addition to the amount ordered in the child support order that is in effect.

1070 704.14-5. *Staying Administrative Enforcement Actions.* Administrative enforcement actions shall
1071 be stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a hearing
1072 is requested because an agreement cannot be reached or the reasonableness of the plan is
1073 questioned, until the Family Court determination has been made. To stay an administrative
1074 enforcement action means the following:

1075 (a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of
1076 any State or Oneida-issued licenses;

1077 (b) Any frozen financial accounts shall remain frozen and shall not be seized; and

1078 (c) Personal property that has been seized shall not be sold.

1079 704.14-6. *Suspension of Administrative Enforcement Actions.*

1080 (a) When a plan has been negotiated between the obligor and the Agency, or the Family
1081 Court has determined that a plan is reasonable or has ordered a plan, the Agency shall
1082 suspend administrative enforcement actions as long as the obligor complies with the plan
1083 or requests a hearing because of a substantial change in circumstances.

1084 (b) If an obligor makes a full an arrears payment agreeable to the Agency, the
1085 administrative enforcement action shall be suspended.

1086 704.14-7. *Default on an Alternative Payment Plan.* In the event that the obligor defaults on the
1087 plan, the Agency shall notify the obligor in writing that an administrative enforcement action shall
1088 be implemented unless the child support lien is paid in full.

1089 704.14-8. *Renegotiation of an Alternative Payment Plan.* After the entry of an alternative payment
1090 plan, the plan may be renegotiated upon the written request of the obligor or Agency if the
1091 requesting party can show a substantial change in circumstances. A substantial change in
1092 circumstances includes any of the following:

1093 (a) A change in the obligor's income or assets, including the sale or purchase of real or
1094 personal property;

1095 (b) A change in the obligor's earning capacity; and/or

1096 (c) Any other factor that the Agency determines is relevant.

1097

1098 **704.15. Administrative Enforcement Action**

1099 704.15-1. The Agency shall have the authority to use administrative enforcement actions to
1100 enforce a child support order without obtaining an order from the Family Court in the event that
1101 an obligor is at least one (1) month delinquent in paying his or her child support obligations.

1102 704.15-2. *Liens.* The Agency shall have an obligor placed on the lien docket if the obligor owes
1103 a debt in one or more of the obligor's cases equal to or exceeding the monthly amount due or five
1104 hundred dollars (\$500.00), whichever is greater.

1105 (a) *Lien Amount.* The lien amount on the lien docket shall equal the sum of lien amounts
1106 from the cases in which the lien amount meets or exceeds the lien threshold.

1107 (b) *Filing Date.* The filing date on the lien docket is the date that a lien is first docketed
1108 and delivered to the register of deeds. The filing date is the effective date of the lien. The
1109 effective date does not change if the lien amount is adjusted up or down within five (5)
1110 years after the date that the lien is first docketed.

- 1111 (c) *Lien Priority*. The child support lien shall have priority over all other liens on property
1112 except:
- 1113 (1) tax and special assessment liens;
 - 1114 (2) purchase money mortgages;
 - 1115 (3) construction liens;
 - 1116 (4) environmental liens;
 - 1117 (5) liens that are filed or recorded before the child support lien becomes effective;
 - 1118 and
 - 1119 (6) any other lien given priority under the law.
- 1120 (d) Property subject to a lien includes personal property in which the obligor has a recorded
1121 ownership interest.
- 1122 (e) *Effect on a Good Faith Purchaser*. A child support lien is not effective against a good
1123 faith purchaser of titled personal property unless the lien is recorded on the title.
- 1124 (f) *Credit Bureau Reporting*. The Agency may report the total amount of an obligor's
1125 liens to the credit bureau, so long as the lien is fully enforceable and the case is not barred
1126 from credit bureau reporting.
- 1127 (g) *Agency Lien Responsibilities*. The Agency shall be responsible for:
- 1128 (1) updating the lien docket periodically;
 - 1129 (2) providing a copy of the lien docket to the appropriate register of deeds;
 - 1130 (3) responding to inquiries concerning information recorded on the lien docket;
 - 1131 (4) ensuring the satisfaction of a lien is recorded on the lien docket;
 - 1132 (5) renewing a lien if the lien amount equals or exceeds the lien threshold at the
1133 end of the five (5) year effective period;
 - 1134 (A) When a lien is renewed, the date on which the lien is renewed shall
1135 become the effective date of the lien, and a new five (5) year period shall
1136 commence.
 - 1137 (6) sending the obligor a notice when a lien has been renewed; and
 - 1138 (7) developing procedures for releasing a lien and releasing specific property from
1139 a lien.
- 1140 (h) *Financial Record Review*.
- 1141 (1) An obligor may request a financial record review in writing to the Agency
1142 within ten (10) business days of the date of notice of a lien, to determine the
1143 correctness of the financial records in a case.
 - 1144 (2) Upon receiving a request for a financial record review, the Agency shall, at no
1145 charge to the obligor, provide the obligor with:
 - 1146 (A) all relevant financial records;
 - 1147 (B) information explaining how to interpret the records; and
 - 1148 (C) a form the obligor may use to identify any alleged errors in the records.
 - 1149 (3) Within twenty (20) days after receiving the relevant financial records, the
1150 obligor may:
 - 1151 (A) request a meeting with the Agency to review the financial records and
1152 to discuss any alleged errors; and/or
 - 1153 (B) provide a statement of alleged error on the documents.
 - 1154 (i) The Agency shall review the records to determine whether the
1155 alleged error is correct and provide a written determination within
1156 sixty (60) days after the obligor's request for a financial record
1157 review is received as to whether the lien against the obligor is in the
1158 correct amount.

- 1159 (4) The Agency may proceed with the lien if:
1160 (A) the obligor does not request a meeting with the Agency or provide a
1161 statement of alleged error within twenty (20) days after receiving the
1162 financial records;
1163 (B) no errors are found in the financial records of the case; or
1164 (C) the arrears exceed the required threshold amount after any errors in the
1165 financial records are corrected.

1166 704.15-3. *Seizure of Property*. The Agency shall have the authority to seize property, whether an
1167 account or personal property, of an obligor. The Agency shall presume that an obligor's equity or
1168 ownership in the property is an equal pro-rata share of the equity or ownership based on the number
1169 of individuals with a recorded ownership interest in the property.

1170 (a) *Account Seizure*. Once a lien is placed against an obligor, the Agency may initiate an
1171 account seizure if the lien amount in the obligor's case equals or exceeds three hundred
1172 percent (300%) of the monthly amount due in the order, or one thousand dollars (\$1,000),
1173 whichever is greater.

1174 (1) The Agency may not issue a notice of seizure unless the sum of the funds in all
1175 of the obligor's financial accounts, minus expected seizure fees and any early
1176 withdrawal penalty, exceeds five hundred dollars (\$500). The first five hundred
1177 dollars (\$500) of each account shall not be frozen and/or seized.

1178 (2) The notice issued by the Agency shall instruct the financial institution of the
1179 following:

1180 (A) The maximum amount frozen in an account may not exceed the amount
1181 specified by the Agency in the notice.

1182 (B) The maximum amount frozen in an account may not exceed the
1183 obligor's ownership interest.

1184 (C) A financial institution is not liable for encumbering or surrendering any
1185 assets held by the financial institution in response to instructions from the
1186 Agency for the purpose of enforcing a child support order.

1187 (b) *Seizure of Personal Property*. Once a lien is placed against an obligor, the Agency
1188 may initiate the seizure of personal property if the lien amount equals or exceeds six
1189 hundred percent (600%) of the monthly amount due in the order.

1190 (1) The Agency may seize personal property if the obligor's equity in the property,
1191 minus expected seizure fees, exceeds five hundred dollars (\$500) per item total.

1192 (2) Ceremonial or religious property and/or real property are exempt and shall not
1193 be seized by the Agency.

1194 (3) *Process for Seizing Property*. The Agency shall follow the following process
1195 for seizing personal property:

1196 (A) The Agency shall notify the obligor of the intent to request the Family
1197 Court to issue an order of execution for the seizure of property.

1198 (B) The Agency shall request the Family Court to grant a written order of
1199 execution for the seizure of property. The Agency shall provide the Family
1200 Court an affidavit that notice of this request has been provided to the
1201 obligor.

1202 (C) Upon issuance of a written order of execution by the Family Court,
1203 non-exempt personal property may be seized and sold in a reasonable
1204 manner.

1205 704.15-4. *Attachment of Per Capita Payments.* The Agency may initiate the attachment and/or
1206 seizure of per capita payments of members of the Nation in accordance with applicable laws of the
1207 Nation.

1208 704.15-5. *License Suspension.* The Agency may initiate the suspension or denial of both State
1209 and Oneida issued licenses if there is a lien against an obligor that equals or exceeds three hundred
1210 percent (300%) of the monthly amount due in the child support order, or one thousand dollars
1211 (\$1000), whichever is greater.

1212 (a) The types of State or Oneida issued licenses that the Agency may initiate the suspension
1213 or denial of include, but are not limited to, vendor, professional, occupational, hunting,
1214 fishing, recreational, and/or motor vehicle licenses.

1215 (b) The Agency shall not initiate the suspension of an occupational and/or motor vehicle
1216 license if:

1217 (1) there is an order in place that prohibits the suspension of the license;

1218 (2) the obligor has filed for bankruptcy; or

1219 (3) action has already been taken to suspend the license.

1220 (c) When an Oneida-issued license is suspended, that suspension shall be binding on and
1221 given effect by the license issuing agencies. Orders affecting licenses issued by other
1222 governmental agencies shall be sent to such agencies for enforcement.

1223 704.15-6. *Lump-Sum Pension Payments, Judgments, and Settlements Intercepts.* Once an obligor
1224 has been placed on the lien docket the Agency may initiate the intercept of lump-sum pension
1225 payments, judgments and/or settlements.

1226 (a) When initiating the intercept of lump-sum pension payments, judgments and/or
1227 settlements, the Agency shall specify in the notice that the amount withheld from the lump-
1228 sum pension payment, judgment or settlement may not exceed the obligor's ownership
1229 interest in the payment.

1230 704.15-7. *Tax and Lottery Intercepts.* The Agency may coordinate with a federal or state agency
1231 in order to enforce a child support order through a tax and/or lottery intercept. Once an obligor
1232 has been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice
1233 is valid until all arrears are paid in full.

1234 (a) *Federal Tax Intercept.* The Agency may certify a federal tax intercept when the
1235 requirements pertaining to federal tax intercept contained in an agreement between the
1236 State and the Nation have been met.

1237 (b) *Wisconsin State Tax and/or Lottery Intercept.* The Agency may certify a Wisconsin
1238 state tax intercept and/or a Wisconsin state lottery intercept, when the lottery winnings are
1239 one thousand dollars (\$1,000) or more, when the following requirements are met:

1240 (1) The arrears shall be at least one hundred and fifty dollars (\$150);

1241 (2) The arrears shall be at least thirty (30) days old; and

1242 (3) The arrears shall be for a minor child or a child who has reached the age of
1243 eighteen (18) within the last twenty (20) year.

1244 704.15-8. *Passport Denial.* If a federal tax intercept is in place and the obligor owes two thousand
1245 five hundred dollars (\$2,500) or more in arrears, an obligor may be denied a passport. The arrears
1246 must meet the criteria for federal tax intercept in order for passport denial to be used as an
1247 enforcement tool. An obligor shall be removed from the passport denial list if:

1248 (a) The federal tax intercept certification amount is zero (0);

1249 (b) The obligor makes a lump-sum payment and/or negotiates a payment plan with the
1250 Agency;

1251 (c) The obligor has to travel abroad because of a life-or-death situation involving an
1252 immediate family member; or

1253 (d) The obligor was denied a passport in error.
1254

1255 **704.16. Family Court Enforcement Action**

1256 704.16-1. If the Agency does not have the authority to conduct the appropriate enforcement action,
1257 or the obligor is unresponsive to the enforcement actions being imposed by the Agency, the case
1258 shall be referred to the Family Court for enforcement. The Family Court may order any of the
1259 enforcement actions the Agency is authorized to implement, in addition to the enforcement actions
1260 described in this section.

1261 704.16-2. *Bonds and Other Guarantees.* The Family Court may require an obligor to provide a
1262 surety, bond or guarantee to secure the payment of arrears, if income withholding is not applicable,
1263 practical, or feasible to secure payment of arrears.

1264 704.16-3. *Claims Against Estates.* The Family Court may approve a claim for past and future
1265 support against an obligor's estate. The Family Court may issue a restraining order against an
1266 estate from which an obligor will inherit.

1267 704.16-4. *Contempt.* ~~The Family Court may hold an obligor who fails to comply with a lawful~~
1268 ~~child support order in contempt. An obligor found to be in contempt shall be subject to the~~
1269 ~~following punishments~~ *Community Service.* ~~The Family Court may order an obligor to perform~~
1270 ~~community service. The number of hours of work required may not exceed what would be~~
1271 ~~reasonable considering the amount of arrears the obligor owes. The obligor shall be provided a~~
1272 ~~written statement of the terms of the community service order and that the community service~~
1273 ~~order is monitored. The order shall specify:~~

1274 (a) Community Service. ~~The Family Court may order an obligor to perform community~~
1275 ~~service. The number of hours of work required may not exceed what would be reasonable~~
1276 ~~considering the amount of arrears the obligor owes. The obligor shall be provided a written~~
1277 ~~statement of the terms of the community service order and that the community service order~~
1278 ~~is monitored. The order shall specify(a):~~

- 1279 (1) how many hours of community service the obligor is required to complete;
1280 (b) the time frame in which the hours must be completed;
1281 (c) how the obligor will report his or her hours; and
1282 (d) any other information the Family Court determines is relevant.

1283 ~~704.16-5. (b) Fines.~~ ~~Contempt.~~ ~~An obligor who disobeys a lawful child support order shall be~~
1284 ~~subject to punishment for contempt of court.~~

1285 (a) An obligor found in contempt of court may be fined in an amount not to exceed one
1286 thousand dollars (\$1,000.00) per act of contempt and may not exceed five thousand dollars
1287 (\$5,000.00) in total. In instances of continuing contempt, each day shall constitute a
1288 separate act of contempt.

1289 ~~704.16-6.~~ (c) *Incarceration.* The Family Court may order an obligor be incarcerated.
1290 Before a jail sentence is imposed, the Family Court ~~may~~shall provide other conditions that
1291 require a certain amount of money be paid or action be taken for an obligor to avoid
1292 incarceration.

1293 ~~704.16-7.~~ (d) *Criminal Non-Support.* A criminal non-support action may be initiated, in
1294 the appropriate county, against an obligor who has the ability to pay child support and
1295 willfully or intentionally failed to pay and the obligor knew or reasonably should have
1296 known he or she was legally obligated to provide.

1297

1298 **704.17. Full Faith and Credit for Foreign Child Support Orders**

1299 704.17-1. Child support orders, judgments, or decrees of other federally recognized tribes, and
1300 states that relate to child support shall be recognized and modified in accordance with the
1301 requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B.

1302 704.17-2. A foreign order is authenticated by reasonable proof that the document tendered to the
1303 Family Court is a true certified copy of the foreign order as it is recorded in the agency or court of
1304 the issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records,
1305 or a court seal, is sufficient evidence of authenticity.

1306 704.17-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
1307 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
1308 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
1309 as an order of the Family Court.

1310 704.17-4. If a foreign order is brought before the Family Court solely for an interpretation of the
1311 terms of the order, and the order has been recognized and given full faith and credit by the Family
1312 Court, the Family Court shall interpret the order by applying the law of the forum that issued the
1313 foreign order.

1314

1315 **704.18. Right of Appeal**

1316 704.18-1. *Appeals of Administrative Enforcement Action.* Any enforcement action implemented
1317 by the Agency may be appealed to the Family Court within thirty (30) calendar days after the date
1318 that the action is enforced. The decision of the Family Court as to the Agency’s administrative
1319 enforcement action shall be final and non-appealable.

1320 704.18-2. *Appeals of Family Court Decisions.* A party may appeal a Family Court decision, other
1321 than the decision of the Family Court in regard to administrative enforcement action as referenced
1322 in section 704.18-1, to the Nation’s Court of Appeals within thirty (30) calendar days after the date
1323 the Family Court made the decision. The review of the Court of Appeals shall be based on the
1324 record and the original decision of the Family Court.

1325

1326 *End.*

1327 Emergency Adopted - BC-06-30-08-C (Expired)

1328 Emergency Extended - BC-12-10-08-H (Expired)

1329 Permanently Adopted- BC-06-24-09-B

1330 Emergency Amended - BC-10-28-09-E

1331 Amended - BC-02-24-10-G

1332 Amended - BC-06-22-11-K

1333 Amended - BC-10-10-12-C

1334 Amended - BC-08-13-14-E

1335 Amended - BC-__-__-__-__

1336

ONEIDA NATION PUBLIC MEETING NOTICE**Thursday, October 17, 2019, 12:00 pm**Norbert Hill Center-Business Committee Conference Room
N7210 Seminary Rd., Oneida, Wisconsin**Find Public Meeting Materials at**

Oneida-nsn.gov/government/register/public meetings

Send Public Comments to

LOC@oneidanation.org

Ask Questions here

LOC@oneidanation.org

920-869-4312

**CHILD SUPPORT LAW AMENDMENTS**

The purpose of this law is to establish the legal responsibility of parents to provide financially for their children's general well-being, as well as to make support payments more equitable by ensuring consistent treatment of persons in similar circumstances; make support payments based on the real earning capability of parents; and improve the efficiency of child support establishment and enforcement.

The amendments to the Child Support law will:

1. Create a process to suspend or modify child support orders for parents incarcerated for one hundred and eighty (180) days or more.
2. Update notice requirements and timelines for initiating an action by the Agency, as well as sending appointment letters, notices of delinquency, notices of enforcement action, and income withholding orders.
3. Clarify how the Family Court may redact addresses and identifying information from court documents to ensure the safety of a party.
4. Make updates to how child support obligations are calculated in certain special circumstances involving shared-placement parents, split-placement parents, and a serial family obligor.
5. Repeal Child Support Rule No. 1 - Deviation from Child Support and Rule No. 2 - Enforcement Tools and move the contents of the rules into the body of the law itself.
6. Make additional updates and clarify language throughout the law.

PUBLIC COMMENTS PERIOD CLOSSES THURSDAY, OCTOBER 24, 2019

During the Public Comment Period, anyone may submit written comments. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.

PROVIDING EFFECTIVE PUBLIC COMMENTS

Providing public comment is an important way to make your voice heard in decision making. Public comments can strengthen a decision or provide different perspectives. The Legislative Operating Committee wants to hear from you!



✓ READ THE PUBLIC MEETING MATERIALS: Before you provide comments familiarize yourself with the legislation. A public meeting packet is made for every public meeting and they include 1) a notice with the date, time, location, 2) a draft of the proposed legislation, and 3) a plain language review of the legislation and its impact on the Oneida Nation.

✓ PREPARE YOUR COMMENTS: When you are familiar with the legislation, start to prepare comments. The LOC is responsible for reviewing every comment received. To get your message across effectively, frame your comment clearly and concisely. Here is an example of how to create an effective comment:

Least Effective Comment	More Effective Comment	Most Effective Comment
This law isn't fair for parents in the community.	We need better enforcement for those parents who do not pay their child support.	Section 704.15-3(a)(1) should be amended to allow money to be seized from an account that has less than \$500 dollars.



shakoti?nukú·lale? latiksashúha?
They watch over the children
AMENDMENTS TO CHILD SUPPORT LAW
LEGISLATIVE ANALYSIS

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Oneida Child Support Agency	SPONSOR: David P. Jordan	DRAFTER: Clorissa N. Santiago	ANALYST: Brandon Wisneski
Intent of the Amendments	<p>To create a process to suspend or modify child support orders for parents incarcerated for one hundred and eighty (180) days or more;</p> <p>To update notice requirements and timelines for initiating an action by the Agency, sending letters of noncompliance, sending notice of delinquency, sending notice of enforcement action, and sending income withholding orders;</p> <p>To clarify how the Family Court may redact addresses and identifying information from court documents to ensure safety of a party;</p> <p>To make updates to how child support obligations are calculated in certain special circumstances, such as:</p> <ul style="list-style-type: none"> ▪ updating how overnights and equivalent care are calculated for shared-placement parents; ▪ updating the formula for calculating child support obligations of split-placement parents; ▪ updating the date when legal obligation for child support is incurred for a non-marital child of a serial family obligor; <p>To update what constitutes a “substantial change in circumstance” that warrants a modification of a child support order;</p> <p>To repeal Child Support Rule #1 Deviation from Child Support and Rule #2 Enforcement Tools and move the contents of the rules into the body of the law itself;</p> <p>To make additional updates and clarify language throughout the law.</p>		
Purpose	<p>The purpose of this law is to establish the legal responsibility of parents to provide financially for their children’s general well-being; make support payments more equitable by ensuring consistent treatment of persons in similar circumstances; make support payments based on the real earning capability of parents; and improve efficiency of child support establishment and enforcement [7 O.C. 704.1-1].</p>		
Affected Entities	<p>Oneida Child Support Agency, Oneida Family Court, Oneida Court of Appeals, Oneida license-issuing agencies such as Oneida Licensing and Oneida Conservation, and any individuals with child support cases that fall under the jurisdiction of the Oneida Family Court [7 O.C. 704.4].</p>		
Public Meeting	<p>A public meeting has not yet been held.</p>		
Fiscal Impact	<p>A fiscal impact statement prepared in accordance with the Legislative Procedures Act has not yet been requested.</p>		

What Is Child Support?

“When parents separate, they still have shared rights and responsibilities as to their children. The most basic of these responsibilities is supporting their children so they have food, clothing, shelter and health care. Child support is a payment made by one parent to another for the support of a child. The amount of the payment is based on a percentage, determined by law, of the paying parent’s income.” *Source: Oneida Child Support Agency FAQ.*

“Child support is the financial support paid by parents to support a child or children of whom they do not have full custody. Child support can be entered into voluntarily, by court order or by an administrative agency (the process depends on the state or tribe). The noncustodial parent or obligor—the parent who does not have primary care, custody, or control of the child or children—often has an obligation to the custodial parent or obligee—the parent who has primary care, custody and control of the child or children.” *Source: National Association of State Legislatures (NCSL).*

SECTION 2. LEGISLATIVE DEVELOPMENT

- A. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 gave tribal nations the authority to establish child support agencies. Wisconsin (WI) Statute 801.54 allows WI circuit courts to transfer civil actions to tribal courts in matters where tribal nations have concurrent jurisdiction, such as child support cases.
- B. The Oneida Child Support Agency was established by the Oneida Business Committee on June 20, 2007. Oneida Nation’s application for a child support services grant was approved by the U.S. Department of Health and Human Services on April 4, 2008.
- C. The Oneida Nation’s Child Support law was first adopted by emergency amendment on June 30, 2008 and permanently adopted on June 24, 2009 by the Oneida Business Committee. It was most recently amended on August 13, 2014.
- D. At the end of 2008, the Oneida Child Support Agency had 482 cases. As of 2018, the Oneida Child Support Agency now handles over 3,050 cases and has completed case transfers from Brown and Outagamie counties.
- E. On February 28, 2018, the Oneida Child Support Agency submitted a request to amend the Oneida Child Support law. The LOC added the Child Support Law amendments to the Active Files List on March 7, 2018. Since that time, the LOC has worked with Child Support Agency to review the law and develop potential amendments.

SECTION 3. CONSULTATION AND OUTREACH

- A. Representatives from the following departments or entities participated in the development of this law and legislative analysis: Oneida Child Support Agency, Oneida Law Office, Oneida Police Department, and Oneida Judiciary Family Court.
- B. The following laws were reviewed in the drafting of this analysis: Administrative Rulemaking law; Paternity law; Per Capita law; Oneida Judiciary Rules of Civil Procedure; Rules of Appellate Procedure; Workers Compensation law; Garnishment law; Family Court law; Family Court Rules; Per Capita law; Children’s Code; Divorce, Annulment and Legal Separation; Child Custody, Placement and Visitation law. In addition, the following laws from other tribal nations and the state of Wisconsin were reviewed:
 - Ho Chunk Nation - Child Support Code 4HCC7
 - Forest County Potawatomi - Child Support Law
 - Lac Du Flambeau - Child Support Law Ch 31

- 34 ▪ Menominee Nation – Financial Support of Children Law
- 35 ▪ Stockbridge Munsee Child Support Law
- 36 ▪ White Earth Child Support Act
- 37 ▪ State of Wisconsin Child Support Administrative Enforcement – Chapters DCF 150 & 152.
- 38 C. In addition, the following documents or articles were reviewed in the drafting of this analysis:
- 39 ▪ Child Support Enforcement: Tribal Programs – Congressional Research Service Report. July
- 40 5, 2016.
- 41 ▪ Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement
- 42 Programs, Federal Register, Volume 81, Number 244. December 20, 2016.
- 43 ▪ Child Support Final Rule Fact Sheet: Flexibility, Efficiency and Modernization in Child
- 44 Support Enforcement Programs. Office of Child Support Enforcement, Administration for
- 45 Children and Families, Dept. of Health and Human Services. January 5, 2017. DCL-17-01.
- 46

47 **SECTION 4. PROCESS**

- 48 A. Thus far, amendments to this law have followed the process set forth in the Legislative Procedures Act
- 49 (LPA).
- 50 B. The law was added to the Active Files List on March 7, 2018.
- 51 C. At the time this legislative analysis was developed, a total of twenty-six (26) work meetings were held
- 52 regarding the development of this law and legislative analysis:
- 53 ▪ April 5, 2018: Work meeting with Child Support.
- 54 ▪ April 18, 2018: Work meeting with LOC.
- 55 ▪ May 17, 2018: Work meeting with Child Support.
- 56 ▪ June 8, 2018: Work meeting with Child Support.
- 57 ▪ June 22, 2018: Work meeting with Child Support.
- 58 ▪ July 13, 2018: Work meeting with Child Support.
- 59 ▪ August 9, 2018: Work meeting with Child Support, Family Court and Oneida Police Department.
- 60 ▪ August 17, 2018: Work meeting with Child Support.
- 61 ▪ September 18, 2018: Work meeting with Child Support.
- 62 ▪ October 12, 2018: Work meeting with Child Support.
- 63 ▪ October 26, 2018: Work meeting with Child Support.
- 64 ▪ October 31, 2018: Work meeting with LOC and Child Support.
- 65 ▪ November 9, 2018: Work meeting with Child Support.
- 66 ▪ December 6, 2018: Work meeting with Child Support.
- 67 ▪ December 10, 2018: Work meeting with Child Support and Oneida Police Department.
- 68 ▪ December 19, 2018: Work meeting with LOC.
- 69 ▪ January 4, 2019: Work meeting with Child Support.
- 70 ▪ February 1, 2019: Work meeting with Child Support.
- 71 ▪ March 3, 2019: Work meeting with Child Support.
- 72 ▪ April 4, 2019: Work meeting with Child Support.
- 73 ▪ April 30, 2019: Work meeting with Child Support.
- 74 ▪ May 16, 2019: Work meeting with Child Support & Law Office.
- 75 ▪ July 17, 2019: Work meeting with LOC.
- 76 ▪ July 18, 2019: Work meeting with LOC.
- 77 ▪ July 25, 2019: Work meeting with LOC.
- 78 ▪ August 21, 2019: Work meeting with LOC and Child Support.
- 79
- 80
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SECTION 5. CONTENTS OF THE LEGISLATION

The following provides a summary of the changes proposed in the amendments to the Child Support Law:

A. Moving Child Support Rules into the Law. The Child Support Law currently includes two (2) rules: Rule #1 Deviation from Child Support and Rule #2 Enforcement Tools. Both rules became effective June 24, 2009, prior the adoption of the Nation’s Administrative Rulemaking law [1 O.C. 106]. The proposed amendments delete the rules and move the contents of both Rule #1 and Rule #2 into the body of the law itself.

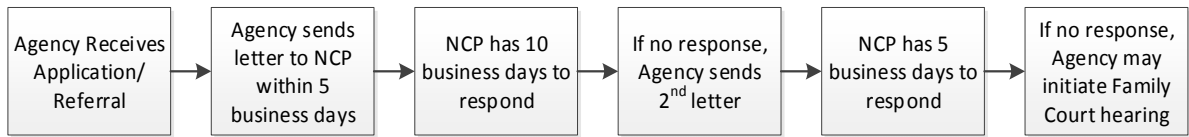
- *Rule #1 Deviation from Child Support.* The information from Rule #1 Deviation from Child Support, unless otherwise noted in this analysis, has been moved to the following sections:
 - 704.7 Determining Child Support Obligation
 - 704.8 Determining the Child Support Obligation in Special Circumstances
 - 704.9 Child Support Order
- *Rule #2 Enforcement Tools.* The information from Rule #2 Enforcement Tools, unless otherwise noted in this analysis, has been moved to the following sections:
 - 704.12 Compliance Plan
 - 704.13 Enforcement of an Order
 - 704.14 Alternative Payment Plans
 - 704.15 Administrative Enforcement Action
 - 704.16 Family Court Enforcement Action
- *Deleted Examples.* Rule #1 contained example calculations and scenarios to illustrate how to determine child support in special circumstances. These examples have been deleted. Such examples could be provided in a separate document or worksheet by the Agency.

B. Notice for Initiation of Action by Oneida Child Support Agency.

- *Requesting Services.* When the Oneida Child Support Agency receives an application or referral for services, the Agency is required to send notice to the non-custodial parent. The non-custodial parent is the parent who does not hold primary care, custody or control of the child.
- *Current Notice Requirements.* Within five (5) business days of receiving a referral or application, the Agency is currently required to send two (2) letters to the non-custodial parent before initiating a hearing in the Family Court. The purpose of the letters is to request information and attempt to negotiate a stipulation, or voluntary agreement, between the parents. If the non-custodial parent does not respond to the letters, then the Agency will initiate a hearing in the Family Court.
- *Changes to Notice Requirements.* [7 O.C. 704.5-2].
 - *Meeting with Custodial Parent Prior to Sending Notice.* The Agency will now be required to meet with the custodial parent (the parent who has primary custody of the child) within thirty (30) days of receiving a referral or application. Only after meeting with the custodial parent will the Agency send the notice letter to the non-custodial parent.
 - *Effect.* This change reflects the Agency’s current practice. The Agency reports that most child support cases begin as referrals from other agencies rather than an application from the custodial parent. The Agency reports that meeting with the custodial parent first ensures that the Agency has the information it needs before contacting the non-custodial parent and/or initiating an action.
 - *Deadline for Agency to Send Letter.* The Agency will now have seven (7) business days rather than five (5) business days to send the Letter of Request for Support and Financial Disclosure form to the non-custodial parent.
 - *Number of Letters.* Rather than sending two (2) letters, the Agency is now only required to send one (1) letter before initiating a hearing. This will allow for child support hearings to be scheduled more quickly. Rather than waiting at least fifteen (15) days as the law currently requires, the Agency can now request a hearing after ten (10) days.

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Chart 1. Current Notice Requirements – Initiating an Action by Child Support Agency.



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Chart 2. Proposed Notice Requirements – Initiating an Action by Child Support Agency.

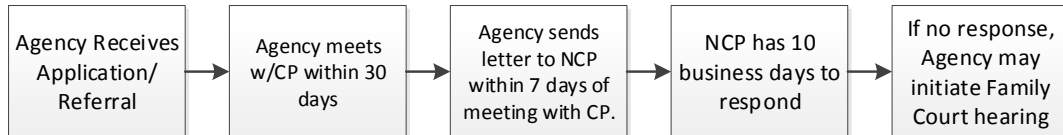
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*CP = Custodial Parent. NCP = Non-Custodial Parent.

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C. **Requirements of the Petition.** If the parents do not enter into a voluntary agreement, then a petition to establish child support may be filed with the Family Court. Currently, the petition only requires the name, date of birth and address of the petitioner and respondent and a separate form with the child's identifying information. These new amendments require more detailed information to be included on the petition. This was added at the request of the Child Support Agency to reflect current petition forms [7 O.C. 704.5-5(a)].

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- **New Information Required on Petition:** Name, date of birth, address and tribal affiliation of the petitioner and respondent; with whom the child currently resides; when and how paternity was established; information regarding other children of the parties and the child support obligation for those children; information about any state or tribal benefits either party receives; whether any other action to determine child support is pending or has been entered by another court; financial information such as the parties' income; the relief the petitioner is requesting; and a separate confidential form that includes the child's identifying information.

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D. **Nondisclosure of Information in Protected Cases.** A new provision has been added giving the Family Court judge authority to limit access to the child or party's address or other identifying information [7 O.C. 704.5-5(b)(1)(B)].

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- **Limiting Address or Identifying Information.** The Family Court may limit disclosure if the health, safety or liberty of a child or party would be unreasonably put at risk. This change was made to address safety concerns for individuals who do not wish to have their address included in court documents.

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E. **Child Support Hearings.**

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- **Factual Determinations at Hearings.** Currently, factual determinations made at child support hearings are limited to "the income and expense information necessary to determine the appropriate level of support" in accordance with the law. These amendments remove this limitation. Now, factual determinations at child support hearings shall include, "but not be limited to," income and expense information [7 O.C. 704.6-1].

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- **Effect.** The Family Court may make factual determinations on issues other than income and expenses during a Child Support hearing. This is an expansion of the Family Court's authority during these particular hearings.

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- **Closed Hearings and Records for Child Support Cases.** The current Child Support law already states that Child Support Hearings in the Family Court are closed to anyone other than those necessary to the action or proceeding. A new provision has been added stating that the records of child support proceedings will also be kept confidential [7 O.C. 704.6-6].

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- 179 ○ *Confidential Case Records*. Records may only be viewed by the parties, legal guardians,
180 the parties’ attorney or advocate, guardian ad litem, Judges and staff assigned to the case,
181 and those with written authorization from a party to view the material in the record.
182 ○ *Existing Law*. The Nation’s Rules of Civil Procedure already state: “At the request of any
183 party or on its own motion, the Court may seal any part of a case file, preventing public
184 disclosure. A file or part of a file may only be sealed where the safety of a party, witness
185 or other individual may be in jeopardy if the material is not placed under seal” [8 O.C.
186 803.32-2(b)(3)]. Now, rather than being optional, the court will automatically keep records
187 of child support cases confidential.
- 188 **F. Authority of Family Court to Order Parent to Search for a Job or Participate in Job Training**
189 **Program**. Typically, a child support order is based on a percentage of a parent’s income. When a
190 parent’s income is less than their earning capacity or unknown, the court may “impute,” or “estimate”
191 the parent’s earning capacity based on available evidence.
- 192 ▪ *Order Parent to Search for Job or Participate in Job Training*. For these cases, a new provision
193 has been added allowing the Family Court to order a parent to search for a job or participate in a
194 work experience or job training program [7 O.C. 704.7-4(b)].
- 195 ▪ *Comparison to WI*. This language is similar to updates made to Wisconsin (WI) regulations utilized
196 by county child support agencies. However, unlike WI, Oneida’s Family Court may order a job
197 search or job training program “in addition to” imputed income, rather than as “an alternative” to.
- 198 **G. Formula for Determining Child Support Obligations When the Child Receives Social Security**
199 **Benefits**. The Nation’s current Child Support law includes a provision to account for a child’s social
200 security benefits when calculating a parent’s child support obligation.
- 201 ▪ *Updates to Formula*. These amendments add a new formula to specifically address shared-
202 placement parents whose child receives social security benefits. The intent of this new formula is
203 to ensure that Child Support orders accurately take this income into account in these unique cases
204 [7 O.C. 704.7-6(a)].
- 205 ▪ *Comparison to WI*. This updated formula mirrors recent updates to Wisconsin regulations.
- 206 **H. Claiming Children for Tax Purposes**. A provision from Child Support Rule #1 regarding the
207 “dependency exemption” for federal tax purposes [1.3-7] is deleted. The dependency exemption was
208 eliminated by Congress as a result of the Tax Cuts and Jobs Act of 2017, also known as the “tax reform
209 bill.” In its place, these amendments add a new provision regarding claiming children for tax purposes
210 [7 O.C. 704.7-7].
- 211 ▪ *New provision*. This new provision gives the Family Court authority to address who may claim a
212 child for tax purposes. It also gives the Family Court authority to accept a stipulation entered into
213 by the parties regarding children and taxes. This change was recommended by the Family Court
214 and Child Support Agency Attorney.
- 215 **I. Determining Child Support for Serial Family Obligor**. When one parent has multiple children in
216 separate families, that parent is known as a “serial family obligor.” In these cases, the court must
217 determine the order of the parent’s child support obligations, because the order determines how much
218 support is owed for each child.
- 219 ▪ *New Date for Non-Marital Children*. For a non-marital child, the legal obligation for child support
220 will now be incurred on the date that paternity was legally established rather than the date that the
221 child support order is entered [7 O.C. 704.8-1(b)(2)]. This change was recommended by the
222 Agency to reflect their current practice and mirror Wisconsin regulations.
- 223 **J. Determining Child Support for Shared-Placement Parents**.
- 224 ▪ *Changes to Overnights and Equivalent Care*. At the recommendation of the Agency, changes have
225 been made to how overnights and periods of equivalent care calculated. These changes now give
226 more consideration to periods of time a parent cares for the child that is not technically an overnight,
227 but where the court determines that a parent is still assuming basic support costs that are equivalent

- 228 to what a parent would spend to care for that child overnight. These changes are consistent with
229 updates to Wisconsin regulations [7 O.C. 704.3-1(n) and 704.8-2(a)(1)].
- 230 ○ *Effect.* The number of overnights and periods of equivalent care are important in
231 determining the percentage of time each parent is caring for the child. That information is
232 one of the factors used by the Court to determine the amount of child support ordered for
233 shared placement parents.
 - 234 ■ *Change in Variable Costs.* A new provision has been added that states that a change in the child’s
235 variable costs will not, in and of itself, be considered a “substantial change in circumstances” to
236 justify a modification of a child support order. These changes are consistent with updates to
237 Wisconsin regulations [7 O.C. 704.8-2(b)(7)].
 - 238 ○ *What are Variable Costs?* “Variable costs” are the reasonable costs above basic support
239 costs incurred by or on behalf of a child, such as the cost of child care, tuition, special needs
240 or other activities [7 O.C. 704.3(mm)].
 - 241 ○ *Effect.* In other words, a change to a child’s variable costs (such as child care) will not, by
242 itself, justify modifying the amount of a child support order. Ultimately, the decision as to
243 whether a change in circumstances justify modification of an order will be up to the Family
244 Court.
- 245 **K. *Determining Child Support Obligations of Split-Placement Parents.*** The formula for calculating child
246 support obligation for a split-placement parent has been clarified. The split-placement formula may be
247 applied when parents have two (2) or more children and each parent has placement of at least one, but
248 not all, of the children.
- 249 ■ *Change to Formula.* The Agency reported that the wording of the formula in the current rule [1.4-
250 3] is unclear, resulting in different interpretations of how to calculate support in these cases. These
251 changes were recommended by the Agency to clarify the formula so that support is calculated
252 correctly and uniformly. [7 O.C. 704.8-3(b)].
- 253 **L. *Expression of Ordered Support.*** The Child Support amount must be expressed as a fixed sum. This
254 means that the child support order must include the specific dollar amount the parent is required to pay.
255 [7 O.C. 704.9-1].
- 256 ■ *Option to Agree to Percentage Deleted.* Previously, parents had the option to agree to a percentage
257 of the obligor’s income instead of a specific dollar amount if both parties agreed through a
258 stipulation. This option has been deleted. Oneida Child Support Agency reports that ordering a
259 specific dollar amount is the standard practice for child support orders.
 - 260 ■ *Modifying an Order.* If the fixed sum in the child support order needs to be modified due to a
261 change in circumstances (for example, a change in income), the parties may request to modify the
262 child support order in accordance with the process included in this law [7 O.C. 704.10].
- 263 **M. *How to Send Income-Withholding Orders.*** After an order to withhold income has been issued, the
264 Child Support Agency is required to send a copy of the order to the obligor’s payor (typically their
265 employer) within three (3) business days. This notifies the payor to start withholding a portion of the
266 obligor’s income for child support.
- 267 ■ *Method for Sending Orders.* Previously, the law stated the order could be sent “by any business
268 method acceptable to the payor” and that the order is binding upon notice through service by
269 personal delivery or certified mail. Now the order can be sent “by mail, fax or electronic means.”
270 [7 O.C. 704.9-3(a)].
 - 271 ■ *Comparison to Other Agencies.* Agencies in the state of Wisconsin send income withholding
272 notices by mail, fax or through the Electronic Income Withholding system known as “e-IWO.”
- 273 **N. *Non-Cash Payment Options.*** The current law states that non-cash payment options may be used to
274 satisfy part or all of a child support order if both parties and the Family Court agree to allow non-cash
275 payments. Examples of non-cash payments include clothing, groceries, child care, deer/venison, wood,
276 transportation and skilled trades and services. The list of non-cash options has been updated to add “gift
277 cards” at the recommendation of the Child Support Agency [7 O.C. 704.9-9(b)].

- 278 ▪ *Comparison.* The Agency reports that tribal nations, such as Oneida, have the option to issue non-
279 cash support orders while county agencies in Wisconsin cannot.
- 280 **O. *Modification of Child Support Order.*** The language in this section has been clarified at the request of
281 the Agency to clearly state when and how a modification of a child support order may occur. There are
282 two ways that a Child Support order may be modified: [7 O.C. 704.10-2].
- 283 ▪ *Modification Sought by Agency.* Every two (2) years, the Oneida Child Support Agency will
284 conduct a review of each child support order. If there is a substantial change in circumstances, the
285 Agency will request an order from the Family Court to modify the child support order.
- 286 ○ *Comparison to WI.* WI Child Support agencies review child support orders every 33
287 months. Oneida Child Support Agency reviews more often in an effort to ensure accurate
288 child support orders.
- 289 ▪ *Modification Sought by Parties.* In addition to the two-year reviews automatically conducted by
290 the Agency, either parent may file a motion for modification of a child support order at any time if
291 there has been a substantial change in circumstances.
- 292 **P. *Substantial Change in Circumstance.*** In order to modify a child support order, there must be a
293 “substantial change in circumstance.” The law includes several examples of what qualifies as a
294 substantial change of circumstance, including a “significant change in finances” [7 O.C. 704.10-2].
- 295 ▪ *Change to “Significant Change in Finances” Definition.*
- 296 ○ *Current Definition.* The current law states that “a significant change in finances” that
297 would lead to a change in child support is “more than fifteen percent (15%) or fifty dollars
298 (\$50.00) per month.”
- 299 ○ *Proposed Definition.* In the amendments, this has been changed to “more than fifteen
300 percent (15%) and fifty dollars (\$50.00) per month.” [704.10-2(b) and 704.3-1(nn)].
- 301 ▪ *Effect.* This change sets a higher threshold to modify a child support order. This means that small
302 changes in finances that do not meet both thresholds will not justify changing a child support order.
303 This change was requested by the Oneida Child Support Agency.
- 304 **Q. *Modification of Child Support for Incarcerated Parent.*** A new section regarding incarcerated parents
305 has been added to the law. This new provision allows for the temporary suspension or modification of
306 a child support order for an incarcerated parent who has been sentenced to at least one hundred and
307 eighty (180) days in jail or prison. In other words, the incarcerated parent will not be required to make
308 child support payments (or may make smaller child support payments) while they are serving time in
309 jail or prison [7 O.C. 704.11].
- 310 ▪ ***Who Qualifies for Modification of Child Support Order?*** An obligor who has been sentenced to
311 180 days or more in jail or prison. The obligor must notify the Agency of his or her incarceration.
312 The obligor’s income level while incarcerated will determine whether the order is suspended or
313 modified [7 O.C. 704.11-1]:
- 314 ○ *Temporary Suspension:* If the obligor has an income of less than \$200 dollars per month,
315 the Child Support order may be temporarily suspended.
- 316 ○ *Temporary Modification:* If the obligor has an income of \$200 per month or more, the
317 Child Support order may be temporarily modified based on the obligor’s income.
- 318 • *Example:* An obligor who continues to receive large per capita payments while
319 incarcerated or who participates in a work release program.
- 320 ○ *Exceptions.* Child Support orders will not be suspended for individuals incarcerated for the
321 following crimes, regardless of the length of sentence or monthly income:
- 322 • Felony failure to pay support;
323 • Crime against a child; or
324 • Crime against the obligee (i.e., the other parent).
- 325 ○ *Past Due Arrears.* Past due child support debt or arrears will not be suspended or reduced
326 without stipulation (agreement) by both parties. In other words, incarceration does not wipe
327 out any previous child support debt incurred before being sentenced to jail or prison.

Why Modify Child Support Orders for Incarcerated Parents?

Incarcerated parents have little or no ability to earn income during their sentence. This results in accumulation of high levels of child support debt. The Office of Child Support Enforcement (OFCSE) reports that incarcerated parents leave prison with an average of \$20,000 or more in unpaid child support with no means to pay upon release. “This accumulated child support debt is rarely paid.”

The goal of child support is to increase consistent child support payments for children by setting realistic orders based on the parent’s ability to pay. OFCSE reports that “setting and modifying realistic child support obligations for incarcerated parents can improve their ability to provide consistent support for their children upon release from prison... Formerly incarcerated parents will be more likely to meet their child support obligations, benefitting their children by improving child support compliance and reliability.”

In addition, setting realistic child support orders may also reduce “underground employment activity” and increase contact between children and their parents. According to the Office of Child Support Enforcement, “children do not benefit when their parents engage in a cycle of nonpayment, underground income generation, and re-incarceration.”

On December 20, 2016, the OFCSE issued federal rule AT-16-06, “Flexibility, Efficiency, and Modernization in Child Support Enforcement Actions,” which created a standard process for the suspension or modification of child support orders for incarcerated parents. Since then, child support agencies and courts nationwide have implemented this rule.

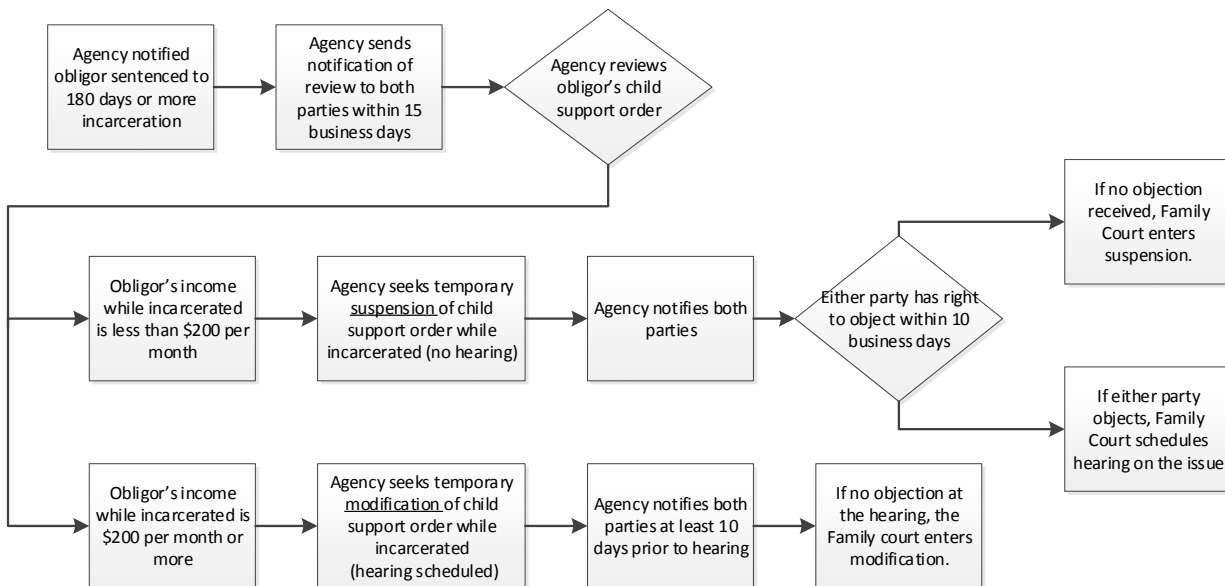
The Oneida Family Court already modifies child support orders for incarcerated parents. The Oneida Child Support Agency supports incorporating this process into Oneida Nation’s Child Support Law. The intent of adding a standard process to the Nation’s Child Support law is to ensure that all incarcerated parents and impacted parties are treated uniformly.

Source: Final Rule Fact Sheets: Flexibility, Efficiency and Modernization in Child Support Enforcement Programs. Office of Child Support Enforcement, Administration for Children and Families, U.S. Dept. of Health and Human Services. January 5, 2017. DCL-17-01. https://www.acf.hhs.gov/sites/default/files/programs/css/fem_final_rule_incarceration.pdf

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- **What is the Process to Suspend or Modify the Order?** The Agency will use the following process:
 - *Notice to Both Parties.* Within fifteen (15) business days of receiving verification of the obligor’s incarceration, the Agency will send notice to both parties informing them of the obligor’s right to have his or her child support obligation reviewed, and the Agency’s intent to review the order [7 O.C. 704.11-2].
 - *Agency Review.* The agency will review the incarcerated obligor’s child support order and determine whether the obligor’s monthly income is less than or greater than \$200 per month while incarcerated [7 O.C. 704.11-3].
 - *Suspension of Order by Agency.* If the obligor is sentenced to 180 days or greater with an income of less than \$200 per month, the Agency will file a motion and order to suspend with the Family Court without a request for a hearing [7 O.C. 704.11-4].
 - *Notice & Right to Object.* Notice shall be sent to all parties. Either party may file written objection with the Family Court within ten (10) business days. If no

341 objection is received, the Family Court will enter the order as proposed. If an
 342 objection is received, the Family Court will hold a hearing on the issue.
 343 ○ *Modification of Order by Agency.* If the obligor is sentenced to 180 days or greater with an
 344 income of \$200 per month or more, the Agency will file a motion with the Family Court
 345 to modify the child support order [7 O.C. 704.11-5].
 346 • *Notice & Right to Object.* The Family Court will schedule a hearing and the
 347 Agency will provide notice to all parties at least ten (10) business days prior to the
 348 hearing. be sent to all parties. If no objection is received at the hearing, the Family
 349 Court will enter the order as proposed.
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351 *Chart 3. Modifying or Suspending Child Support Order for Incarcerated Parent*
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 357 ■ ***How is the Original Child Support Order Reinstated after the Incarcerated Parent is Released?***
 358 Sixty (60) days after the obligor is released from jail or prison, the original child support order prior
 359 to the individual's incarceration will be reinstated by the Agency. [7 O.C. 704.11-8].
 360 ■ ***What Happens if the Obligor's Probation or Extended Supervision is Revoked?*** If the obligor is
 361 released from incarceration and is later sentenced to another one hundred and eighty (180) days or
 362 more in jail or prison, the Agency will use the provisions of this section to determine if another
 363 suspension or modification of the child support order is appropriate [7 O.C. 704.11-9].
 364 **R. Compliance Plans.** At any point when the Agency believes an obligor is or may become non-compliant
 365 with their child support payments, the Agency can work with the obligor to develop a compliance plan.
 366 ■ ***Purpose of Compliance Plan.*** The purpose of a compliance plan is to address barriers to making
 367 regular payments so that a parent can once again make regular payments and meet their child
 368 support obligations [7 O.C. 704.12].
 369 ■ ***Components of Compliance Plan.*** A compliance plan may include requirements to participate in
 370 employment and training programs, social service and mental health services, physical and learning
 371 disability programs, tribal traditions and customs, and family counseling. The agency may suspend
 372 enforcement actions if the party successfully completes the compliance plan. Failure to complete
 373 the compliance plan will result in enforcement action [7 O.C. 704.12-2(c)].

- 374 ○ *New Components.* These amendments add parenting programs and “any other programs
 375 deemed necessary” to the list of acceptable programs that can be included in a compliance
 376 plan. The intent is to increase flexibility for the Oneida Child Support Agency to address
 377 unique needs of each obligor.
- 378 ■ *Changes to Timelines and Notice Letters.* The following changes have been made to more
 379 accurately reflect the Child Support Agency’s practices regarding notices and timelines for
 380 initiating compliance plans [7 O.C. 704.12].

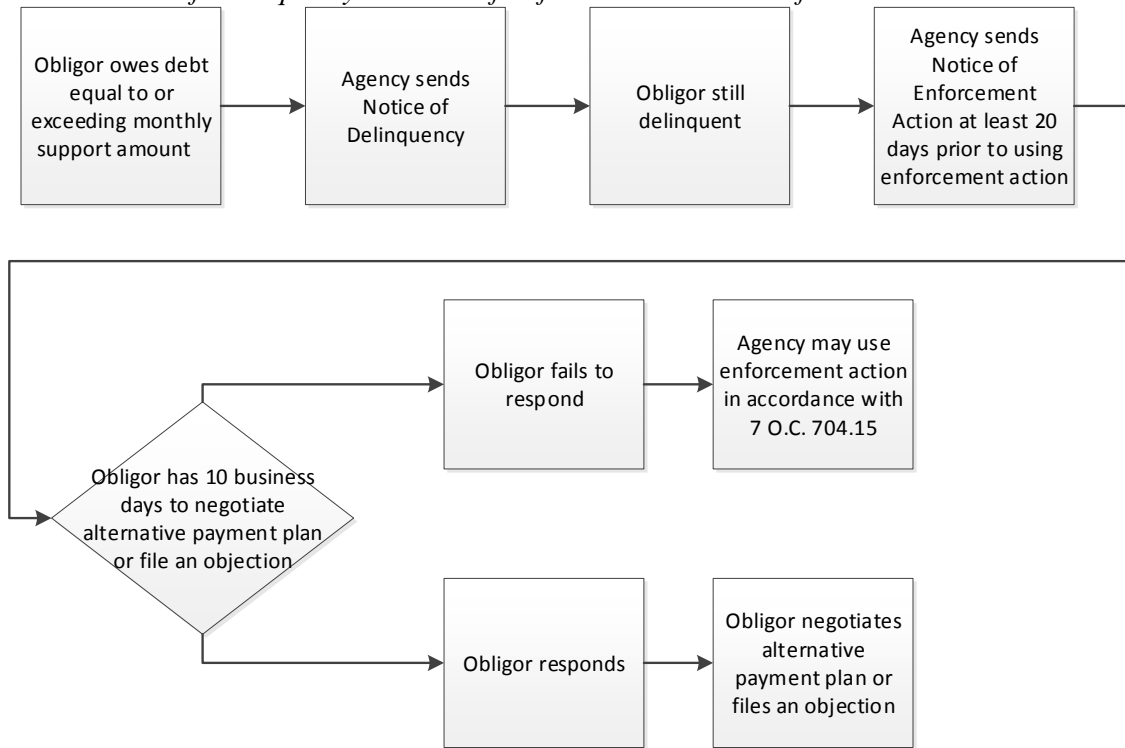
382 *Chart 4. Notice and Timelines for Compliance Plans.*

	Current Law	Proposed Amendments
<i>When is first letter sent?</i>	Within five (5) days of learning of the obligor’s failure to pay.	At any time deemed appropriate, but at least thirty (30) days prior to initiating any enforcement action.
<i>How many days to respond to first letter?</i>	Five (5) days.	Five (5) days.
<i>Agency required to send a 2nd letter?</i>	Yes, agency must send a 2 nd letter regarding the compliance plan.	No, agency not required to send a 2 nd letter regarding the compliance plan.

- 383
- 384 **S. *Notice of Delinquency and Notice of Enforcement.*** When an obligor fails to make their ordered child
 385 support payments, the Agency is required to send notices to the obligor informing them that they are
 386 delinquent. The Oneida Child Support Agency uses a state software system known as “KIDS” to
 387 monitor child support payments and arrears. This system allows the Agency to track and send notices
 388 to delinquent obligors. The Agency suggested the following changes to the notices to more accurately
 389 reflect their practices and ensure compliance:
- 390 ■ *Notice of Delinquency:* The Agency will send this notice to an obligor in the event that the obligor
 391 owes a debt equal to or exceeding the monthly amount. In other words, if the obligor is a month
 392 behind on their payments. This notice will include the total amount of the delinquency and the
 393 enforcement action that may be taken if they do not pay [7 O.C. 704.13-3].
 - 394 ■ *Notice of Enforcement Action.* The Agency will send this notice after the “Notice of Delinquency”
 395 and at least twenty (20) days prior to an enforcement action being used against an obligor. This
 396 notice is more detailed, and will include the total amount of the delinquency, the enforcement action
 397 that may be taken, notice that the obligor may request to negotiate an alternative payment plan
 398 within ten (10) business days in order to stay an enforcement action, and notice that the obligor has
 399 ten (10) business days to file an objection [7 O.C. 704.13-4].
 - 400 ■ *Use of Mail for Notices.* The Agency is required to send notices to the last known-mailing address
 401 provided by the obligor. If notice to that address is returned undeliverable, the Agency must send
 402 notice to the current employer’s mailing address provided by the obligor. If that notice is also
 403 returned, the Agency is then required to use all resources available to identify the obligor’s current
 404 mailing address before they can proceed with an enforcement action [7 O.C. 704.13-5].
 - 405 ○ *Time frame.* Currently, Agency must spend at least sixty (60) days attempting to identify
 406 an obligor’s current mailing address before they can proceed with an enforcement action
 407 [2.4-3 in Rule #2]. These amendments shorten this timeframe to thirty (30) days. This
 408 means that the Agency will be able to use enforcement actions more quickly in cases where
 409 the obligor’s address cannot be determined.

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Chart 5. Notice of Delinquency & Notice of Enforcement Prior to Enforcement Action.



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T. Alternative Payment Plans.

- 418 ■ *Obligors with Cases in Multiple Jurisdictions.* A provision in the law regarding obligors that negotiate alternative payment plans in other jurisdictions (i.e., other County or Tribal child support agencies) has been deleted. This provision informs the reader of requirements of other agencies. The Law Office advises that this is unnecessary within the law and can be incorporated into the Child Support Agency’s internal processes [2.9-10 in Rule #2].
- 423 ■ *Amount of Payment Required to Suspend Enforcement Action.* Currently, the law states that if an obligor makes a “full” arrear payment, an administrative enforcement action will be suspended. This has been changed to “an arrear payment agreeable to the Agency.” The Agency does not require a “full” arrear payment, as this may be tens of thousands of dollars. The Agency may suspend enforcement action in cases where partial payments are made and may work with obligors in arrears to establish alternative payment plans [7 O.C. 704.14-6(a)].

U. Administrative Enforcement Actions. The current Child Support law contains enforcement actions the Agency has the authority to use if the obligor is at least one (1) month delinquent in paying his or her child support obligations. These enforcement actions are listed below, with any changes noted: [7 O.C. 704.15].

- 433 ■ *Liens.* The Agency will place the obligor on the lien docket if the obligor owes a debt equal to or exceeding the monthly amount due or five hundred (\$500) dollars, whichever is greater [7 O.C. 704.15-2].
- 436 ■ *Seizure of Property.* The Agency has the authority to seizure property, including accounts and personal property. The Agency may initiate account seizure if the lien amount in the obligor’s case equal or exceeds 300% of the monthly amount due or one thousand dollars (\$1000), whichever is greater. The Agency may initiate seizure of personal property if the lien amount equals or exceeds 600% of the monthly amount due [7 O.C. 704.15-3].

440

- 441 ▪ *Attachment of Per Capita Payments.* The Agency may initiate the attachment or seizure of per
442 capita payments of members of the Nation in accordance with the Nation’s Per Capita law [7 O.C.
443 704.15-4].
- 444 ▪ *License Suspension.* The Agency may initiate the suspension or denial of both state and Oneida
445 issued licenses if there is a lien against an obligor that equals or exceeds 300% of the monthly
446 amount due or one thousand dollars (\$1000), whichever is greater [7 O.C. 704.15-5].
- 447 ○ *Types of licenses:* The types of licenses that the Agency may initiate suspension or denial
448 of include, but are not limited to, vendor, professional, occupational, hunting, fishing,
449 recreational and/or motor vehicle licenses.
- 450 ○ *Change to License Suspension as Last Resort:* A provision stating that “suspension of an
451 occupational and/or motor vehicle license shall be pursued only as a last resort” has been
452 deleted [2-7(2)(a) in Rule #2]. This will give the Agency the ability to pursue license
453 suspension more readily.
- 454 ▪ *Lump-Sum Pension Payments, Judgments and Settlement Intercepts.* Once an obligor has been
455 placed on the lien docket, the Agency may initiate the intercept of lump-sum pension payments,
456 judgments and/or settlements [7 O.C. 704.15-6].
- 457 ▪ *Tax and Lottery Intercepts.* The Agency may coordinate with federal or state agencies to enforce a
458 child support order through tax or lottery intercept [7 O.C. 704.15-7].
- 459 ▪ *Passport Denial.* If a federal tax intercept is in place and the obligor owes \$2500 or more in arrears,
460 an obligor may be denied a passport [7 O.C. 704.15-8].
- 461 ○ *Change to Threshold.* The threshold for denying a passport has been lowered from \$5,000
462 to \$2,500 to be consistent with recent changes to this threshold by the federal government.
463 This allows this enforcement tool to be used more readily.
- 464 ▪ *Denial of State Issued Grants and Loans.*
- 465 ○ *Deleted Provision.* A provision stating that Wisconsin state agencies may deny state-issued
466 grants and loans has been deleted. The Law Office recommended deleting this item as it
467 was unnecessary, as it is informing the reader of what the State of Wisconsin, not Oneida
468 Nation, may do [2.5-6 in Rule #2].
- 469 **V. Family Court Enforcement Actions.** In addition to the administrative actions listed above, the current
470 child Support Law also gives the Family Court authority to order the following enforcement actions.
471 [7 O.C. 704.16].
- 472 ▪ *Bonds and Other Guarantees.* The Family Court may require an obligor to provide a surety, bond
473 or guarantee to secure the payment of arrears [7 O.C. 704.16-2].
- 474 ▪ *Claims Against Estates.* The Family Court may approve a claim for past and future support against
475 an obligor’s estate. The Family Court may issue a restraining order against an estate from which an
476 obligor will inherit [7 O.C. 704.16-3].
- 477 **W. Contempt.** An obligor who disobeys a lawful child support order shall be subject to punishment for
478 contempt of court. The following enforcement actions already appear in the current law but have been
479 moved under the “Contempt” section. The intent is to clarify that the obligor must first be found in
480 contempt by the Family Court before proceeding with these particular enforcement actions:
- 481 ▪ *Community Service.* The Family Court may order an obligor to perform community service [7 O.C.
482 704.16-4(a)].
- 483 ▪ *Fines.* An obligor found in contempt of court may be fined no more than \$1,000 per act of contempt,
484 not to exceed \$5,000 in total [7 O.C. 704.16-4(b)].
- 485 ▪ *Incarceration.* The Family Court may order an obligor to be incarcerated. Before a jail sentence is
486 imposed, the Family Court may provide other conditions that require a certain amount of money
487 be paid or action be taken for an obligor to avoid incarceration [7 O.C. 704.16-4(c)].
- 488 ○ *Current Practice.* The current law allows for the Family Court to order an obligor to be
489 incarcerated. However, in practice, the Family Court has never sentenced an obligor to jail
490 because the Oneida Nation has no jail and does not have agreements in place with other

491 jails to house individuals sentenced under this law. For more information see Section 9
492 “Other Considerations.”

493 ■ *Criminal Non-Support.* A criminal non-support action may be initiated, in the appropriate county,
494 against an obligor who has the ability to pay child support and willfully or intentionally failed to
495 pay. The Agency reports that criminal non-support is rarely used in Brown and Outagamie counties
496 [7 O.C. 704.16-4(d)].

497 X. *Minor Drafting Changes.* Minor drafting and formatting changes have been made throughout the law
498 for clarity.
499

500 SECTION 6. RELATED LEGISLATION

501 A. *References to Other Laws.* The following laws of the Nation are referenced in the Child Support law.
502 These amendments do not conflict with any of the referenced laws.

503 ■ *Per Capita law.* The Child Support Agency may initiate the attachment or/seizure of per capita
504 payments of members of the Nation in accordance with the Per Capita law [7 O.C. 704.15-4].

505 ■ *Oneida Judiciary Rules of Civil Procedure.* The Family Court may utilize discovery procedures
506 and contempt powers as authorized by any law, policy, or rule of the Nation to obtain information
507 relevant to the establishment or enforcement of child support [7 O.C. 704.6-2].

508 ■ *Rules of Appellate Procedure.* A party may appeal a Family Court decision, other than the decision
509 of the Family Court in regard to administrative enforcement action, to the Nation’s Court of
510 Appeals within thirty (30) calendar days after the date the Family Court made the decision. The
511 review of the Court of Appeals shall be based on the record and original decision of the Family
512 Court [7 O.C. 704.18].

513 B. *Other Laws that Reference Child Support.* The following laws of the Nation reference child support.
514 These amendments do not conflict with any of the referenced laws, except for one potential discrepancy
515 in the Family Court law.

516 ■ *Family Court law.* The Family Court law states that proceedings of the Court shall be closed to the
517 public, except that divorce, child support and post-divorce matters may be attended by members of
518 the general public. However, in any case where the presiding Judge determines that there are safety
519 or confidentiality concerns, the Judge may exclude from the proceedings all individuals not
520 necessarily present as parties of witnesses [8 O.C. 806.4-3].

521 ○ *Comparison to Child Support law.* The Family Court law states that child support matters
522 may be attended by members of the general public, unless the presiding judge determines
523 that there are safety or confidentiality concerns. However, the current Child Support law
524 (and the proposed amendments) state that Child Support proceedings shall be closed to any
525 person other than those necessary to the action or proceeding [7 O.C. 704.6-5 in current
526 Child Support law]. The Family Court law was adopted by the OBC on May 8th, 2013,
527 while the current Child Support law was adopted more recently, on August 13, 2014.

528 ○ *Current Practice.* The Family Court reports that child support hearings are currently closed
529 in accordance with the Child Support law.

530 ○ *Conclusion:* In reviewing amendments to this law, the LOC has expressed that they wish
531 to protect the privacy of matters involving children. Given the inconsistent language
532 between the two laws, the LOC may wish to amend the Family Court law to match the
533 hearing provisions in the Child Support law and the Family Court’s current practice. Since
534 the Family Court law is not currently on the LOC’s Active Files List, the LOC could direct
535 the Legislative Reference Office to make note of this discrepancy the next time the Family
536 Court law comes up for amendments.

537 ■ *Family Court Rules.*

538 ○ *Family Court Rule #5 – Paternity Procedure.* If genetic testing results establish an alleged
539 father as the biological father, the Family Court may address the issue of Child Support at
540 a final paternity hearing [8 O.C. 807].

- 541 ○ *Family Court Rule #12 – Foreign Child Support orders.* Requests, motions or petitions
542 seeking recognition and enforcement of a foreign child support order is governed by this
543 rule when filed under the Nation’s Child Support Law or Garnishment law. The rule
544 outlines the process for sending notice of the filing, filing objections, requesting a hearing,
545 and authenticating the foreign order [8 O.C. 807].
- 546 ■ *Workers Compensation Law.* Workers compensation awards are subject to child support income
547 withholding and other remedies available for the support of a child support order. The maximum
548 amount that may be withheld is one-half of the compensation award. [2 O.C. 203.7-4].
- 549 ■ *Garnishment Law.*
- 550 ○ *Garnishment Amount.* In calculating the amount of the garnishment per pay period, the
551 judge may not include amounts garnished pursuant to child support orders when calculating
552 twenty (20%) of the debtor’s disposable earnings [2 O.C. 205.5-6(c)(1) and 205.6-4(a)(2)].
- 553 ○ *Recognition and Enforcement of Child Support Orders.* The Judiciary shall recognize and
554 enforce child support orders against any employee, provided that the order has been issued
555 from a court of competent jurisdiction. [2 O.C. 204.7].
- 556 ■ *Paternity Law.* The Paternity law outlines the process to establish paternity of Oneida children and
557 other children in order to protect the best interest of these children. The duties and responsibilities
558 of the Child Support Agency in the establishment of paternity through order of the Oneida Family
559 Court are outlined in the Paternity law. The Child Support Agency, when required by federal law,
560 may file a petition requesting the court to establish paternity or other related orders. The Child
561 Support Agency may also assist a party who is filing a petition to establish the paternity of a child
562 [see 7 O.C. 703.6].
- 563 ○ *Commencing a Custody Proceeding.* A child custody proceeding is commenced by a parent
564 by filing a petition to: (a) seek custody of a child, (b) establish the paternity of a child; (c)
565 establish a child support order...” [see 7 O.C. 705.6-1]
- 566 ○ *Peacemaking and Mediation.* Child support shall not be considered during mediation
567 unless child support is directly related to the legal custody or physical placement of the
568 child and the parties agree, in writing, to consider child support. [see 7 O.C. 705.7-3(b)].
- 569 ■ *Per Capita Law.* Per capita payments may be attached for child support arrears ordered by a court
570 of competent jurisdiction, such as the Oneida Family Court. The Per Capita law includes a process
571 for how child support attachments are handled by the Agency and Trust Enrollment Department.
572 [1 O.C. 123.4-9(a)(1) and 1 O.C. 123.4-9(c)].
- 573 ■ *Children’s Code.* At the time this analysis was drafted, the Nation’s Children’s Code was not
574 scheduled to become effective until October 1, 2019.
- 575 ○ *Indian Child Welfare Department Duties.* One of the duties of the Indian Child Welfare
576 Department is to enter into memorandums of understanding and/or agreements with
577 appropriate departments, including the Oneida Child Support Agency, in order to carry out
578 the provisions of the Children’s Code. [7 O.C. 708.7-2(e)].
- 579 ○ *Referrals to Oneida Child Support.* The Family Court or Indian Child Welfare Department
580 may refer matters to the Oneida Child Support Agency at any time. [7 O.C. 708.13-3 &
581 13-4].
- 582 ○ *Indian Child Welfare Disposition Report.* If the ICW Department recommends out-of-
583 home placement, the ICW Department must include in its disposition report a
584 recommendation as to whether the Family Court should establish child support obligation
585 for the parents. [7 O.C. 708.21-2(b)].
- 586 ○ *Termination of Parental Rights.* The Family Court may dismiss a petition if it finds the
587 evidence does not warrant the termination of parental rights or if the Court finds that a
588 parent is attempting to voluntarily terminate their parental rights for the sole purpose of
589 avoiding a child support obligation. [7 O.C. 708.40-2(a)].
- 590 ■ *Divorce, Annulment and Legal Separation.*

- 591 ○ *Petitions*. Petitions for divorce, annulment or legal separation must state whether the parties
- 592 have entered into any written agreement as to child support, and if so, the written agreement
- 593 must be attached [7 O.C. 702.5-1(g)].
- 594 ○ *Legal Separation and Divorce*. After an action for an annulment, legal separation or
- 595 divorce is initiated, the Family Court shall make any necessary temporary order concerning
- 596 child support. Final orders concerning child support shall be made at the time the
- 597 annulment, legal separation or divorce is granted. [7 O.C. 702.8-4].
- 598 ■ *Child Custody, Placement and Visitation*.
- 599 ○ *Commencement of Proceeding*. A child custody proceeding may be commenced under the
- 600 Child Custody, Placement and Visitation play by a parent filing a petition to seek custody
- 601 of a child, establish the paternity of a child, or establish a child support order. [7 O.C.
- 602 705.6-1].
- 603 ○ *Mediation*. If parties agree to mediation under the Child Custody, Placement and Visitation
- 604 law, child support shall not be considered during mediation unless child support is directly
- 605 related to legal custody or physical placement of the child and the parties agree, in writing,
- 606 to consider child support. [7 O.C. 705.7-3(b)].
- 607

608 **SECTION 7. EFFECTS ON EXISTING RIGHTS, PRIVILEGES, OR OBLIGATIONS**

- 609 A. *New Rights and Privileges for Incarcerated Parents*. Parents sentenced to incarceration for greater
- 610 than one hundred and eighty (180) days will now have the right to have their child support orders
- 611 modified or suspended under certain circumstances. Parties have the right to object to modification or
- 612 suspension of an order and request a hearing on the matter [7 O.C. 704.11].
- 613

614 **SECTION 8. ENFORCEMENT AND ACCOUNTABILITY**

- 615 A. *Enforcement Tools*. Under the current Child Support law, the Oneida Child Support Agency and
- 616 Oneida Family Court have a number of administrative and judicial enforcement tools to enforce child
- 617 support orders. These include:
- 618 ■ *Administrative (Agency) Enforcement Tools*: Liens, Seizure of Property including account seizure
 - 619 and personal property, attachment of per capita payments, license suspension, pension, judgment
 - 620 and settlement intercepts, tax and lottery intercepts and passport denial [7 O.C. 704.15].
 - 621 ■ *Judicial Enforcement Tools*: Bonds and other guarantees, claims against estates, contempt,
 - 622 community service, , incarceration and criminal non-support [7 O.C. 704.16].
 - 623

624 **SECTION 9. OTHER CONSIDERATIONS**

- 625 A. *Child Support Collection Rates by Agency*. The following provides examples of collection rates for
- 626 country and tribal child support agencies as of July 2018:
- 627
- 628

Chart 6. Child Support Collection Rates by Agency:

County or Tribal Agency	Court Cases with Current Support Ordered	Court Cases with Current Support Payments	Collection Rate
Oneida Nation	937	471	50.27%
Lac du Flambeau	256	78	30.47%
Menominee Nation	493	229	46.45%
Ashland County	622	375	60.29%
Brown County	6169	4545	73.67%
Calumet County	1019	828	81.26%

Ho Chunk Nation	145	130	89.66%
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Source: Oneida Child Support Agency, August 2018.

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- B. *Repeal Child Support Rules.*** Since the two Child Support Rules have been incorporated into the body of the law itself, the two rules should be repealed upon adoption of these amendments as they will become redundant.
- *Recommendation:* The repeal of the rules should be included in the adopting resolution for these amendments.
- C. *Paternity Law.*** During the development of these amendments, the Oneida Child Support Agency noted that updates to the Nation’s Paternity law may be needed. The establishment of paternity is an important step in setting child support orders. The Nation’s Paternity law was last amended by the Oneida Business Committee in 2014.
- *Recommendation:* If the Oneida Child Support Agency wishes to request amendments to the Paternity law, it is recommended that the agency submit an Active Files Request for the LOC’s consideration.
- D. *Potential Enforcement Tools Considered and Not Added.*** During the development of these amendments, the LOC and Child Support Agency researched potential new enforcement tools to increase collection of child support orders. After reviewing the research and feedback from departments, the LOC decided not to move forward with adding these new tools to the law. The potential enforcement tools considered included:
- *Immobilization of Vehicles.* Authorizing the Family Court or Child Support Agency to direct Oneida Police Department to place a “boot” or “wheel lock” on an obligor’s vehicle to immobilize it. The obligor would then have to contact the Agency to make a payment or negotiate a plan to have the “boot” removed.
 - *“Pocket Pulls.”* Ordering an obligor to empty his or her pockets while in Oneida Nation’s court.
 - *“Till Taps.”* Seizing money from an obligor’s business if it is located on the Reservation.
- E. *Incarceration.*** The current Child Support law already allows the Family Court to sentence individuals to jail. However, this provision has never been used by the Family Court. This is because unlike Wisconsin counties or tribal nations like Menominee Nation, the Oneida Nation has no jail facilities.
- *Incarceration as Tool to Encourage Compliance.* While the goal of the Agency is not to send people to jail, the threat of jail time may motivate obligors to make payments in the most egregious of cases. For example, delinquent obligors can be ordered to make a partial payment or meet with the Child Support Agency to develop an alternative payment plan within a certain number of days or else be sentenced to jail [7 O.C. 704.16-4(c)]. The Agency reports that obligors with cases in the Oneida Child Support system are aware that, unlike other courts, Oneida Nation’s courts cannot send them to jail for failing to pay.
 - *Agreement for Housing Inmates:* The Family Court reports that it will not sentence individuals to jail without an agreement in place with another jail to house our inmates. Therefore, in order for the Family Court to utilize incarceration as an enforcement tool for delinquent child support cases, agreements must be developed between the Nation and Brown and/or Outagamie counties to utilize their jail facilities. The Oneida Business Committee established a work group, including Intergovernmental Affairs and the Law Office, to pursue potential agreements with these counties.
 - *Sentencing Guidelines.* In addition, the LOC may wish to add guidelines for the Family Court judges to follow regarding length of sentence and when incarceration may be used. For example, “incarceration shall only be used as a last resort” or “a sentence shall not to exceed ____ days.” A review of other child support laws indicates that sentencing guidelines are not typically included in child support laws themselves.
 - *Conclusion:* The Child Support Law already authorizes the use of incarceration for Child Support cases. However, this feature of the law cannot be used unless an agreement is developed to utilize

677 a jail. Whether to develop sentencing guidelines and direct a work team to pursue an agreement
678 with the counties to utilize their jail(s) is a policy decision for the LOC and/or Oneida Business
679 Committee. Such a directive could be included in the adopting resolution of this law or in a
680 memorandum.

681

Title 7. Children, Elders and Family - Chapter 704

CHILD SUPPORT

shakoti'nukú·lale? latiksashúha?

They watch over the children

CHILD SUPPORT

704.1. Purpose and Policy	704.10. Modification of a Child Support Order
704.2. Adoption, Amendment, Repeal, Other Laws and Agency Rules	704.11. Modification of a Child Support Order for an Incarcerated Parent Full Faith and Credit for Foreign Child Support Orders
704.3. Definitions	704.12. Compliance Plan Right of Appeal
704.4. Jurisdiction	704.13. Enforcement of an Order
704.5. Initiating an Action for Child Support Orders	704.14. Alternative Payment Plans
704.6. Child Support Hearing Procedures	704.15. Administrative Enforcement Action
704.7. Determining the Child Support Obligation Determination	704.16. Family Court Enforcement Action
704.8. Determining the Child Support Obligation in Special Circumstances Content and Effect of Order	704.17. Full Faith and Credit for Foreign Child Support Orders
704.9. Enforcement of Child Support Order	704.18. Right of Appeal

1 2 **704.1. Purpose and Policy**

3 704.1-1. *Purpose.* The purposes of this law ~~are~~ **is** to:

- 4 (a) Establish the legal responsibility of parents to provide financially for their children's
5 general well-being;
6 (b) Make support payments more equitable by ensuring consistent treatment of persons in
7 similar circumstances;
8 (c) Make support payments based on the real earning capability of parents; and
9 (d) Improve the efficiency of child support establishment and enforcement.

10 704.1-2. *Policy.* It is the policy of this law to:

- 11 (a) establish an adequate standard of support for children whose paternity has been
12 established or acknowledged;
13 (b) encourage the use of ~~voluntary agreements~~ **stipulations** to resolve disputes over child
14 support obligations; ~~and~~
15 (c) limit the use and disclosure of personal information received or maintained by the
16 **Nation's** Family Court ~~and/or~~ the Oneida ~~Tribe~~ **Nation** Child Support Agency in order to
17 protect the privacy rights of all parties and children who are involved in proceedings or
18 actions under this law.

19 20 **704.2. Adoption, Amendment, Repeal, ~~Other Laws and Agency Rules~~**

21 704.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-24-09-B
22 and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C,
23 ~~and BC-08-13-14-E, and BC- - - - .~~

24 704.2-2. This law may be amended ~~pursuant to the procedures set out in the Oneida Administrative~~
25 ~~Procedures Act or repealed~~ by the Oneida Business Committee or the Oneida General Tribal
26 Council ~~pursuant to the procedures set out in the Legislative Procedures Act.~~

27 704.2-3. Should a provision of this law or the application thereof to any person or circumstances
28 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
29 to have legal force without the invalid portions.

30 704.2-4. In the event of a conflict between a provision of this law and a provision of another law,
31 ~~ordinance, policy, regulation, rule, resolution, or motion~~, the provisions of this law shall control.

32 ~~Provided that, nothing in this law is intended to repeal or modify any existing law, ordinance,~~
33 ~~policy, regulation, rule, resolution or motion.~~

34 704.2-5. This law is adopted under authority of the Constitution of the Oneida ~~Nation Tribe of~~
35 ~~Indians of Wisconsin.~~

36 ~~704.2-6. Any Agency requirements which would affect individuals outside the Agency and do not~~
37 ~~relate to the internal management of the Agency shall require Oneida Business Committee~~
38 ~~approval in the form of a law or rule.~~

39

40 **704.3. Definitions**

41 704.3-1. This section shall govern the definitions of words and phrases used within this law. All
42 words not defined herein shall be used in their ordinary and everyday sense.

43 (a) ~~“Administrative enforcement action” means enforcement actions taken by the Oneida~~
44 ~~Nation Child Support Agency authorized by federal regulations which are taken~~ to enforce
45 a child support order without obtaining an order from the Family Court.

46 (b) “Agency” ~~shall mean means~~ the Oneida ~~Nation Tribe~~ Child Support Agency
47 established to administer and supervise the ~~Nation’s Tribe’s~~ child support enforcement
48 program.

49 (c) ~~“Alternative payment plan” or “plan” means a negotiated agreement between the~~
50 ~~Agency and an obligor, or an order set by the Family Court, to establish terms and~~
51 ~~conditions for the payment of arrears.~~

52 (d) ~~“Basic support costs” means food, shelter, clothing, transportation, personal care, and~~
53 ~~incidental recreational costs.~~

54 (e) ~~“Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding~~
55 ~~holidays recognized by the Nation.~~

56 (f) “Child” ~~shall mean means~~ a ~~biological natural~~ or adopted child of the obligor under the
57 age of eighteen (18), or any person who is less than nineteen (19) years old if he or she is
58 pursuing a high school diploma or its equivalent from an accredited course of instruction.

59 (g) “Child support” means the total financial obligation a parent has towards his or her
60 child as established through judicial and/or administrative processes.

61 (h) ~~“Child Support Obligation of Low-Income Payers Schedule” means the Wisconsin~~
62 ~~Department of Children and Families Child Support Obligation of Low-Income Payers at~~
63 ~~the Federal Poverty Guidelines, found in DCF 150 Appendix C.~~

64 (i) “Child support order” ~~shall mean means~~ a judgment of the Family Court or a court of
65 competent jurisdiction ordering payment of child support which provides monetary
66 support, health care, arrearages, or reimbursement, and which may include related costs
67 and fees, interest and penalties, income withholding, attorney’s fees and other relief.

68 ~~(e) “Clerk” shall mean the designated clerk in the Family Court who is identified to carry~~
69 ~~out certain provisions in this law.~~

70 (j) ~~“Current six (6) month treasury bill rate” means the yield of a U.S. government security~~
71 ~~with a term of six (6) months.~~

72 (k) “Custodial parent” ~~shall mean means~~ the parent who exercises physical custody of the
73 child pursuant to a custody order, on the basis of agreement between the parents or in the
74 absence of one parent. A legal guardian with primary physical custody of the child or
75 children and standing in the position of the parent shall have the same rights to child support
76 as a custodial parent.

77 (l) “Employer” ~~shall mean means~~ any individual, business, government, institution, or
78 other entity paying wages to one or more employees.

79 (m) “Equity” means the fair market value of property minus the liens on that property with
80 priority over the child support lien.

81 (n) “Equivalent care” means a period of time during which the parent cares for the child
82 that is not overnight, but is determined by the court to require the parent to assume the
83 basic support costs that are substantially equivalent to what the parent would spend to care
84 for the child overnight. Blocks of time with the child of at least six (6) hours may be
85 considered the equivalent of a half-day if a meal is provided during that time period. Two
86 (2) half-day blocks may be considered the equivalent of an overnight.

87 (o) “Family Court” shall mean means the judicial arm branch of the Tribe-Nation’s
88 Judiciary that is designated to handle all matters under this Law related to the family and/or
89 children.

90 (p) “Gross income” shall mean means any form of payment due to an individual regardless
91 of source, including, but not limited to:

- 92 (1) Salary and wages, including overtime pay;
- 93 (2) Interest and investment income;
- 94 (3) Social Security disability and old age insurance benefits under 42 U.S.C. §401
95 to 433;
- 96 (4) Net proceeds resulting from worker’s compensation or other personal injury
97 awards intended to replace income;
- 98 (5) Unemployment insurance;
- 99 (6) Income continuation benefits;
- 100 (7) Voluntary deferred compensation and ~~voluntary~~ employee contributions to the
101 following: employee benefit plan, profit-sharing, pension or retirement account;
- 102 (8) Military allowances and veterans disability compensation benefits;
- 103 (9) Undistributed income of a corporation or any partnership in which the parent
104 has an ownership interest sufficient to individually exercise control or to access the
105 earnings of the business, unless the income included is an asset;
- 106 (10) Per capita distribution payments;
- 107 (11) Lease or rental income;
- 108 (12) Prizes over one thousand dollars (\$1,000); and
- 109 (13) All other income, whether taxable or not, except that gross income does not
110 include any of the following:
 - 111 (A) Child support;
 - 112 (B) Foster care payments;
 - 113 (C) Kinship care payments;
 - 114 (D) Public assistance benefits, except that child care subsidy payments shall
115 be considered income to a child care provider;
 - 116 (E) Food stamps;
 - 117 (F) Public assistance or financial hardship payments paid by a county or a
118 ~~tribe-Nation~~;
 - 119 (G) Supplemental Security Income under 42 U.S.C. §1381 to 1383(f) and
120 state supplemental payments; or
 - 121 (H) Payments made for social services.

122 (q) “Guardian ad litem” means a person appointed by the Family Court to appear at any
123 peacemaking, mediation, or hearing and tasked with representing the best interest of the
124 person appointed for.

125

- 126 (f) “Immediate family member” means an individual’s husband, wife, mother, father, step-
127 mother, step-father, son, daughter, step-son, step-daughter, brother, sister, step-brother,
128 step-sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-
129 law, brother-in-law or sister-in-law and any of the these relations attained through legal
130 adoption.
- 131 (s) “Income withholding” means the process whereby a court order, Family Court order,
132 or voluntary wage assignment directs an employer, bank, or agent holding monies or
133 property of an obligor, to make payments or deliver property to satisfy a child support
134 obligation.
- 135 (t) “Intact family” means a family in which the child or children and the obligor reside in
136 the same household and the obligor shares his or her income directly with the child or
137 children and has a legal obligation to support the child or children.
- 138 (u) “Legally incompetent adult” shall mean means a person at least eighteen (18) years old
139 who has been declared incompetent by a court of competent jurisdiction because he or she
140 is temporarily or permanently impaired to the extent that the person lacks sufficient
141 understanding to make or communicate responsible personal decisions.
- 142 (v) “Lien amount” means the difference between the monthly amount of support due and
143 the arrears in a case.
- 144 (w) “Lien docket” means the registry kept by the State of Wisconsin containing the names
145 of people who owe past-due child support.
- 146 (x) “Low-income obligor” means an obligor for whom the Family Court uses the monthly
147 support amount provided in the schedule in ~~Appendix A~~ the Child Support Obligation of
148 Low-Income Payers Schedule based on the Family Court’s determination that the obligor’s
149 total economic circumstances limit his or her ability to pay support at ~~the level provided~~
150 under 704.7-2(a) standard percentages and the obligor’s income is at a level set forth in the
151 schedule in ~~Appendix A~~ the Child Support Obligation of Low-Income Payers Schedule.
- 152 (y) “Marital child” means a child born during the marriage of his or her parents. In
153 addition, if the father and mother of a non-marital child enter into a lawful marriage or a
154 marriage which appears and they believe is lawful, except where the parental rights of the
155 mother were terminated before either of these circumstances, the child becomes a marital
156 child and shall enjoy all of the rights and privileges of a marital child as if he or she had
157 been born during the marriage of the parents. The children of all marriages declared void
158 under the law are nevertheless marital children.
- 159 (z) “Monthly ~~i~~Income” shall mean means the obligor’s annual gross income or, if
160 applicable, the obligor’s annual income modified for business expenses; plus the obligor’s
161 annual income imputed based on earning capacity; plus the obligor’s annual income
162 imputed from assets; divided by twelve (12).
- 163 (aa) “Nation” means the Oneida Nation.
- 164 (bb) “Non-~~c~~Custodial ~~p~~Parent” shall mean means the parent of a child who does not hold
165 primary care, custody and/or control of a child.
- 166 (cc) “Non-legally responsible relative” means a ~~relative~~ person connected with a child by
167 blood, marriage, or adoption who assumes responsibility for the care of a child without
168 legal custody, but is not in violation of a court order. ~~A “Non-legally responsible relative”~~
169 does not include a relative who has physical custody of a child during a court-ordered
170 visitation period.
- 171 (dd) “Obligee” shall mean means the person or entity to whom child support is owed.
- 172 (ee) “Obligor” shall mean means the person who is obliged to pay child support to the
173 obligee.

- 174 (ff) “Ownership interest” means any personal financial interest.
175 (gg) “Parent” means the biological natural or adoptive parent of the child.
176 (hh) “Payor” shall mean means a person or entity with a legal obligation, as an employer,
177 buyer of goods, debtor, or otherwise, to pay an obligor.
178 ~~(i) “Relative” means any person connected with a child by blood, marriage or adoption.~~
179 (ii) “Reservation” shall mean means all lands within the exterior boundaries of the
180 Reservation of the Oneida Nation Tribe of Indians of Wisconsin, as created pursuant to the
181 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal
182 law.
183 (jj) “Serial family obligor” means an obligor with an existing legal obligation for child
184 support who incurs an additional legal obligation for child support in a subsequent family
185 as a result of a child support order.
186 (kk) “Shared-placement obligor” means a parent who has an ordered period of placement
187 of at least twenty-five percent (25%), is ordered by the Family Court to assume the child’s
188 basic support costs in proportion to the time that the parent has placement of the child and
189 is determined to owe a greater support amount than the other parent.
190 (ll) “Split-placement obligor” means an obligor who has two (2) or more children and who
191 has physical placement of one (1) or more children but not all of the children.
192 (mm) “Stipulation” means a voluntary agreement between parties concerning some
193 relebatn point.
194 ~~(nnn) “Substantial change of income” means the obligor has a significant change in his~~
195 ~~or her finances that would lead to a change in child support of more than fifteen percent~~
196 ~~(15%) and fifty dollars (\$50.00) per month.~~
197 ~~(ooo) “Variable costs” means the reasonable costs above basic support costs incurred by~~
198 ~~or on behalf of a child, including but not limited to, the cost of child care, tuition, a child’s~~
199 ~~special needs, and other activities that involve substantial cost.~~
200 ~~(oopp) “Threshold” means an amount, expressed as either a percentage of the monthly~~
201 ~~amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed~~
202 ~~before an administrative enforcement action may be used to enforce a child support order.~~
203 ~~(t) “Tribe” or “Tribal” shall mean the Oneida Tribe of Indians of Wisconsin.~~
204 ~~(u) “Wage Withholding” shall mean the process whereby a court order, Family Court~~
205 ~~order or voluntary wage assignment directs an employer, bank or agent holding monies or~~
206 ~~property of an obligor, to make payments or deliver property to satisfy a child support~~
207 ~~obligation.~~

704.4. Jurisdiction

- 210 704.4-1. The Family Court has jurisdiction over any action brought under this law.
211 704.4-2. Personal Jurisdiction. Personal jurisdiction over an individual under this law may be
212 established where one party or a child of the parties is any of the following:
213 (a) a member of the ~~Tribe;~~ Nation;
214 (b) a resident of the Reservation who is also a member of an Indian tribe, band or
215 community which is recognized by a State or the federal government;
216 (c) a resident of the Reservation who is also the biological parent of ~~a~~ the child that is
217 enrolled or is eligible for enrollment with the ~~Tribe~~ Nation; ~~or~~
218 (d) an individual who consents to the jurisdiction of the Family Court by one (1) of the
219 following means:
220 (1) Filing an action with the Family Court;

221 (2) Knowingly and voluntarily giving written consent to the jurisdiction of the
222 Family Court;

223 (3) Entering a notice of appearance before the Family Court in an action without
224 concurrently preserving the defense of lack of personal jurisdiction or filing a
225 motion to dismiss for lack of personal jurisdiction within thirty (30) days of entering
226 the notice of appearance; ~~or~~

227 (4) Appearing in an action before the Family Court without asserting the defense
228 of lack of personal jurisdiction.

229 704.4-~~23~~. Personal jurisdiction over the other party may be established using any method provided
230 by law, including long-arm jurisdiction procedures as provided for in Section 201 of the Uniform
231 Interstate Family Support Act as referred to in 42 ~~USC Section~~ U.S.C. §666.

232 704.4-~~34~~. *Transfer of Cases from Other Courts*. If personal jurisdiction over the parties has been
233 established under ~~704.4-1 or 704.4-2~~ this law, the Family Court has jurisdiction over any action
234 transferred to the Family Court from any court of competent jurisdiction.

235 **704.5. Initiating an Action for Child Support Orders**

236 704.5-1. Every parent has a duty to support each and every child of that parent. A child support
237 order may be obtained from the Family Court by either submitting a voluntary agreement to the
238 Family Court for approval or by filing a petition for child support with the Family Court.

239 (a) If a party to the action is a minor or is a legally incompetent adult, the Family Court
240 may appoint a guardian ad litem to represent such party in the action, ~~in accordance with~~
241 ~~section 705.8 of the Child Custody, Placement and Visitation law.~~

242 ~~704.5-2. A party may request the services of the Agency or may be referred to the Agency from~~
243 ~~an entitlement program.~~

244 704.5-2. *Initiation of Action by the Agency*. For assistance in initiating a child support order ~~A~~
245 party may request the services of the Agency or may be referred to the Agency from an entitlement
246 program.

247 (a) Within ~~thirty five (530) business~~ days of receiving a completed application for services
248 or a referral, the Agency shall ~~send the non-~~ meet with the custodial parent ~~a Letter of~~
249 ~~Request for Support and Financial Disclosure form.~~

250 (b) Within seven (7) business days of the meeting with the custodial parent, the Agency
251 shall send a Letter of Request for Support and Financial Disclosure form to the non-
252 custodial parent.

253 (c) If the non-custodial parent fails to respond to or take action on the Letter ~~within ten~~
254 ~~(10) business days, a second Letter~~ of Request for Support and Financial Disclosure form
255 shall be sent.

256 (e) ~~If the non-custodial parent fails to respond to or take action on the second Letter within~~
257 ~~five (5) within ten (10) business days, the custodial parent, or the Agency when required by~~
258 federal law, may initiate a hearing in accordance with this law.

259 (d) If the non-custodial parent responds within the required time period after receiving a
260 Letter of Request for Support and Financial Disclosure form, the parties shall attempt to
261 enter into a ~~stipulation~~ voluntary agreement.

262 704.5-3. *Initiation of Action by a Party Not the Agency*. Any of the following individuals may
263 initiate an action for the establishment of child support at any time by filing a petition with the
264 Family Court:

265 (1a) a custodial parent;

266 (2b) a child's mother;

267 (3c) a child's father;

- 269 (4d) a child's guardian ad litem;
270 (5e) a child's non-legally responsible relative; or
271 (6f) a legally incompetent adult's guardian ad litem; or

272 704.5-34. Voluntary Agreement Stipulation. (a) The parties may enter into a stipulation ~~voluntary~~
273 ~~agreement~~ at any time as to the level of the child support obligation.

274 (a) The Agency shall assist parties in reaching a stipulation ~~voluntary agreement~~ upon
275 request or when the parties are referred to the Agency by an entitlement program. Parties
276 may also submit a stipulation ~~voluntary agreement~~ to the Family Court for approval without
277 the Agency's assistance.

278 (b) In order for a stipulation ~~voluntary agreement~~ to be valid the following conditions shall
279 be met:

- 280 (1) The stipulation ~~agreement~~ shall be in writing, signed, and notarized;
281 (2) If the parties deviate from the percentage standards, the stipulation ~~agreement~~
282 shall state the amount of support that would have been ordered by the percentage
283 standards and the reasons for deviating from the percentage standards;
284 (3) All parties shall sign the stipulation ~~agreement~~ free of duress and coercion; and
285 (4) The Family Court shall make written findings that the stipulation ~~agreement~~ is
286 appropriate, using the criteria for deviating from standard percentages ~~under 704.7-~~
287 3 as a guideline, if applicable.

288 (c) After the stipulation ~~agreement~~ is approved and filed by the Family Court, it shall have
289 the same force and effect as an order issued by the Family Court. The obligation of the
290 obligor to pay child support shall commence on the date specified in the stipulation
291 ~~agreement~~, but no later than the date the agreement is approved and filed by the Family
292 Court.

293 704.5-45. Initiating a Hearing Petition to Establish Child Support. If the parties do not enter into
294 a stipulation ~~voluntary agreement~~, then ~~any of the following may initiate an action for the~~
295 ~~establishment of a petition to establish~~ child support by filing a petition may be filed with the
296 Family Court.

- 297 (a) ~~a custodial parent;~~
298 (b) ~~a child's natural mother;~~
299 (c) ~~a child's father;~~
300 (d) ~~a child's guardian ad litem;~~
301 (e) ~~a child's non-legally responsible relative;~~
302 (f) ~~a legally incompetent adult's guardian ad litem; or~~
303 (g) ~~the Agency when required by federal law.~~

304 704.5-5. Petition: The petition to establish child support may be filed as a separate proceeding or
305 in connection with a petition for child custody. ~~The petition to establish child support shall include~~
306 ~~the following~~:

307 (a) Requirements of the Petition. The petition to establish child support shall include the
308 following:

- 309 (1) The name, date of birth, and address, and tribal affiliation of the petitioner, and
310 respondent, and child for whom support is requested;
311 (+A) If the address of the respondent is unknown, other Tribal departments
312 of the Nation shall cooperate with the Family Court, at the Family Court's
313 request, to provide the Family Court with the respondent's address. Any
314 such Family Court requests shall be made in such a way which protects the
315 privacy rights of all parties and children who are involved in proceedings or
316 actions under this law.

- 317 (2) With whom the child currently resides;
318 (3) When and how paternity was established;
319 (4) Name and date of birth of other children of the parties, and the child support
320 obligation for those children, if applicable;
321 (5) Whether either party is receiving state or tribal benefits, and if so, what benefits;
322 (6) Whether any other action to determine child support has been commenced or
323 is pending in a court of another jurisdiction and whether a child support order has
324 been entered by another court;
325 (7) Financial information such as the parties' income;
326 (8) The relief the petitioner is requesting, which shall include, but is not limited to,
327 establishment of support, request for support back to date of filing, and/or any other
328 relief the court may deem just and equitable;

329 (b2) Confidential Petition Addendum. The confidential petition addendum is a A
330 separate form which has the parties and the child's name, date of birth and social
331 security number. This form shall be kept separate from the petition and shall be
332 maintained in a confidential file. The form shall be available only to the parties,
333 ~~their~~ the parties' attorneys or advocates, the Agency, or any person authorized by
334 the Family Court to have access to the form.

335 (b) Nondisclosure of Information in Protected Cases. Upon a finding, which may be made
336 ex parte, that the health, safety or welfare of a party or child would be unreasonably put at
337 risk by the disclosure of identifying information, or if an existing order so provides, the
338 Family Court shall order that the address of the child or party, or other identifying
339 information, not be disclosed in a pleading or other document filed in a proceeding under
340 this law.

341 704.5-6-(c) Hearing Date. Upon receipt of a petition, the Family Court shall schedule a
342 hearing to determine child support to be held at a time after the filing of the petition and
343 consistent with the manner of service.

344 704.5-7-(d) Notice Summons. All parties shall be notified of the petition and of all
345 hearings, and shall be given an opportunity to be heard.

346 (1) Service of the Summons. The summons, which N-notices the initiation of an
347 action shall be served by certified mail (return receipt requested) or in person within
348 fifteen (15) calendar days after the petition is filed with the Family Court. All
349 mailing-of-notice The summons shall include the Family Court clerk's return
350 address, with a notice request to file an answer to that address. Subsequent Any
351 notice after the summons shall be served by first-class mail to the recently verified
352 last-known address of the party.

353 (aA) Certified mail. Certified mail sent to a party's most recently verified
354 last-known address but returned because it was unclaimed or refused shall
355 constitute constructive service. Certified mail returned for other reasons
356 shall require service by other methods pursuant to the Oneida Judiciary
357 Rules of Civil Procedure.

358 (bB) Publication. When a responding party cannot be found for personal
359 service after diligent attempts and attempts to serve the responding party by
360 certified mail have failed, the petitioner may ask the Family Court to direct
361 the Agency to provide use service by publication. If the request is granted,
362 the Agency The publication shall be publish the petition in the Kalihwisaks
363 Nation's newspaper or a newspaper of general circulation in the county of

364 residence of the respondent, if known. ~~The P~~publication shall be designated
365 as a Legal Notice and any confidential information shall be redacted.

366 (1i) If service by publication is ~~used~~permitted and there is
367 insufficient time for notice and answer pursuant to this ~~L~~law, the
368 Family Court shall re-schedule the hearing appropriately and may
369 permit extended time deadlines for default orders and for hearings
370 in order to provide for fair notice and opportunity for the party to
371 respond.

372 ~~704.5-8(2) Requirements of the Summons and Petition.~~ The summons to be served
373 on the respondent(s), along with the petition, shall include the following notice, in
374 addition to providing a time, place, and date for appearance:

375 (a1) That if he or she chooses not to appear at the hearing or enter a defense
376 to the petition challenging the authority of the Family Court to hear the
377 matter by the date of the hearing, the hearing shall proceed on the basis of
378 the petitioner's evidence;

379 (b2) That a child support order may require the ~~respondent~~person found to
380 be the obligor to pay child support until the child reaches eighteen (18) years
381 of age or until the child graduates from high school, or its equivalent, up to
382 age nineteen (19);

383 (e3) That the ~~respondent's~~ person found to be the obligor may have his or
384 her license(s) ~~may be~~ suspended or denied for failure to pay child support,
385 in addition to other enforcement actions;

386 (d4) That the ~~respondent's~~ person found to be the obligor's employer or
387 others with evidence of ~~the respondent's~~ his or her income may be
388 subpoenaed to provide the Family Court with records of his or her earnings;

389 (e5) That if the ~~respondent~~ person found to be the obligor is unemployed,
390 ~~he or she will~~ it shall still be ~~imputed to be~~ determind that he or she is able
391 to provide some degree of child support and an order of support ~~will~~shall
392 be calculated according to this law unless the Family Court makes written
393 findings ordering otherwise; and

394 (f6) That any answer to the petition shall be filed with the Family Court
395 within twenty (20) calendar days of the date of service of the petition, and
396 a copy served on the other party.

397 ~~704.5-9(e) Answers.~~ Answers shall be filed with the Family Court and served on the
398 petitioner within twenty (20) calendar days of the date of service of the petition in
399 accordance with the Nation's laws and policies governing civil procedure.

400 ~~704.5-10(f) Subpoenas.~~ Upon request of either party, the Family Court shall issue
401 subpoenas to any person in possession of relevant information to appear or produce
402 documents to the Family Court. Failure to comply with such a subpoena may be punishable
403 as contempt.

404 ~~704.5-11. Temporary Orders.—At any time after a child's parentage has been established, the~~
405 ~~Family Court may make a temporary order for the payment of child support and the child's health~~
406 ~~care expenses. Before making a temporary order, the Family Court shall consider those factors~~
407 ~~that the Family Court is required to consider when granting a final child support order. If the~~
408 ~~Family Court makes a temporary child support order that deviates from the amount of support that~~
409 ~~would be required by using the percentage standard, the requirements of section 704.7-38 shall be~~
410 ~~complied with.~~

411

412 **704.6. Child Support Hearing Procedures**

413 704.6-1. The factual determinations made at a hearing shall ~~include, but is not be~~ limited to, the
414 income and expense information necessary to determine the appropriate level of support according
415 to this law.

416 704.6-2. The Family Court may utilize discovery procedures and contempt powers, as authorized
417 by ~~any Tribal~~ law, policy, or rule of the Nation to obtain information relevant to the establishment
418 or enforcement of child support. These procedures may include the following:

- 419 (a) Issue subpoenas requiring necessary and relevant parties to appear in person and
420 provide testimony;
- 421 (b) Issue subpoenas requiring the production of evidence;
- 422 (c) Obtain information about property or assets to assess its value or funding source for
423 lien or seizure actions;
- 424 (d) Obtain information about the income of any party to the action; ~~and/or~~
- 425 (e) Issue contempt findings for failure to comply with the lawful order of the Family Court.

426 704.6-3. Both parties have the right to representation by an attorney and/or advocate at his or her
427 ~~their~~ own expense. The ~~Tribe~~ Nation shall not be required to pay for any fees and/or expenses
428 incurred by any party in connection with proceedings under this law.

429 704.6-4. Temporary Orders. At any time after a child's parentage has been established, the Family
430 Court may make a temporary order for the payment of child support and the child's health care
431 expenses. Before making a temporary order, the Family Court shall consider ~~these~~ all factors that
432 the Family Court is required to consider when granting a final child support order. If the Family
433 Court makes a temporary child support order that deviates from the amount of support that would
434 be required by using the percentage standard, the requirements of ~~section 704.7-38~~ shall be
435 complied with.

436 704.6-~~45~~. *Default.* If the respondent fails to appear at the hearing upon a showing of valid service
437 and the petitioner presents evidence of the obligation by the absent party, a child support order
438 shall be entered pursuant to the evidence.

439 704.6-~~56~~. *Hearings and Records Closed.* Child ~~S~~support proceedings shall be closed to any
440 person other than those necessary to the action or proceeding. Records of child support cases shall
441 remain confidential and shall only be viewed by the parties, the legal guardian of a party who is a
442 minor, the parties' attorney or advocate, guardian ad litem, Judges and staff assigned to the case,
443 and those other persons who first obtain a written release from a party to view material contained
444 in the record.

445

446 **704.7. Determining the Child Support Determination Obligation**

447 704.7-1. ~~Except as provided elsewhere in this law, T~~he Family Court shall determine child
448 support payments by using the percentage standards established in section 704.7-2 of this law,
449 except as provided elsewhere in this law. The obligor's monthly income shall be considered in
450 determining his or her child support obligation.

451 704.7-2. *Percentage Standards to Determine the Amount of Child Support.*

- 452 (a) The following percentages shall be applied to the portion of an obligor's monthly
453 income available for child support that is less than seven thousand dollars (\$7,000~~±~~):
- 454 (1) seventeen percent (17%) for one (1) child;
- 455 (2) twenty-five percent (25%) for two (2) children;
- 456 (3) twenty-nine percent (29%) for three (3) children;
- 457 (4) thirty-one percent (31%) for four (4) children; and
- 458 (5) thirty-four percent (34%) for five (5) or more children.

459 (b) The following percentages shall be applied to the portion of an obligor's monthly
460 income available for child support that is greater than or equal to seven thousand dollars
461 (\$7,000) and less than or equal to twelve thousand five hundred dollars (\$12,500):

- 462 (1) fourteen percent (14%) for one (1) child;
- 463 (2) twenty percent (20%) for two (2) children;
- 464 (3) twenty-three percent (23%) for three (3) children;
- 465 (4) twenty-five percent (25%) for four (4) children; and
- 466 (5) twenty-seven percent (27%) for five (5) or more children.

467 (c) The following percentages shall be applied to the portion of an obligor's monthly
468 income available for child support that is greater than twelve thousand five hundred dollars
469 (\$12,500):

- 470 (1) ten percent (10%) for one (1) child;
- 471 (2) fifteen percent (15%) for two (2) children;
- 472 (3) seventeen percent (17%) for three (3) children;
- 473 (4) nineteen percent (19%) for four (4) children; and
- 474 (5) twenty percent (20%) for five (5) or more children.

475 704.7-3. ~~1.3-1.~~ Determining Income Modified for Business Expenses. In determining a parent's
476 monthly income, the Family Court may adjust a parent's-gross income as follows:

- 477 (a) Adding wages paid to dependent household members.
- 478 (b) Adding undistributed income that the Family Court determines is not reasonably
479 necessary for the growth of the business. The parent shall have the burden of proof to show
480 that any undistributed income is reasonably necessary for the growth of the business.
- 481 (c) Reducing gross income by the business expenses that the Family Court determines are
482 reasonably necessary for the production of that income or operation of the business and
483 that may differ from the determination of allowable business expenses for tax purposes.

484 704.7-4. Determining Income Imputed Based on Earning Capacity. When a parent's income is
485 less than the parent's earning capacity or is unknown, the Family Court may impute income to the
486 parent at an amount that represents the parent's ability to earn.

- 487 (a) The parent's ability to earn may be based on the parent's:
 - 488 (1) education, training, and recent work experience;
 - 489 (2) earnings during previous periods;
 - 490 (3) current physical and mental health;
 - 491 (4) history of child care responsibilities as the parent with primary physical
492 placement; and
 - 493 (5) the availability of work in or near the obligor's community.
- 494 (b) If evidence is presented that due diligence has been exercised to ascertain information
495 on the parent's actual income or ability to earn and that information is unavailable, the
496 Family Court may impute to the parent the income that a person would earn by working
497 thirty-five (35) hours per week for the federal minimum hourly wage ~~under 29 USC 206~~
498 ~~(a)(1).~~ In addition to imputed income, the Family Court may order the parent to search for
499 a job or participate in a work experience and job training program.
- 500 (c) If a parent has gross income or income modified for business expenses below his or
501 her earning capacity, the income imputed based on earning capacity shall be the difference
502 between the parent's earning capacity and the parent's gross income or income modified
503 for business expenses.

504 704.7-5. Determining Income Imputed from Assets.

- 505 (a) The Family Court may impute a reasonable earning potential to a parent's assets if the
506 Family Court finds both of the following:

507 (1) The parent has ownership and control over any real or personal property,
508 including but not limited to, life insurance, cash and deposit accounts, stocks and
509 bonds, business interests, net proceeds resulting from worker's compensation or
510 other personal injury awards not intended to replace income, and cash and corporate
511 income in a corporation in which the obligor has an ownership interest sufficient to
512 individually exercise control and the cash or corporate income is not included as
513 gross income.

514 (2) The parent's assets are underproductive and at least one (1) of the following
515 applies:

516 (A) The parent has diverted income into assets to avoid paying child
517 support.

518 (B) Income from the parent's assets is necessary to maintain the child or
519 children at the standard of living they would have had if they were living
520 with both parents.

521 (b) The Family Court shall impute income to assets by multiplying the total net value of
522 the assets by the current six (6) month treasury bill rate or any other rate that the Family
523 Court determines is reasonable and subtracting the actual income from the assets that were
524 included as gross income.

525 704.7-6. Adjustment for Child's Social Security Benefits. The Family Court may ~~include~~ consider
526 benefits received by a child under 42 U.S.C. §402(d) based on a parent's entitlement to federal
527 disability or old-age insurance benefits under 42 U.S.C. §401 to 433 ~~in the parent's gross income~~
528 and adjust an obligor's child support obligation by subtracting the amount of the child's benefit.
529 In no case may this adjustment require the obligee to reimburse the obligor for any portion of the
530 child's benefit. If the obligor is receiving the child's benefit, the support amount is either the
531 percentage standard applied to the obligor's income or the amount of the child's benefit, whichever
532 is greater.

533 (a) Determining the Child Support Obligations of Shared-Placement Parent when the
534 Child Receives Social Security Benefits. If the shared-placement guidelines under section
535 704.8-2 apply, the child's benefit is split between the parents in proportion to the amount
536 of time the child spends with each parent. Add the proportion of the child's benefit that
537 represents the proportion of time the child spends with the parent not receiving the benefit
538 to the support obligation of the parent who is receiving the child's benefit. Child support
539 shall be determined as follows:

540 (1) Determine each parent's monthly income available for child support under
541 section 704.7-2. If a parent has one (1) or more previous child support obligations,
542 determine the parent's monthly income available for child support adjusted for the
543 previous obligations as provided in section 704.8-1. Include the parent's federal
544 disability or old age insurance benefits under 42 U.S.C. §401 to 433 in that parent's
545 income, but do not include the child's benefit under 42 U.S.C. §402 (d) in either
546 parent's income.

547 (2) Multiply each parent's monthly income available for child support by the
548 appropriate percentage standard under section 704.7-2.

549 (3) Multiply each amount determined under section 704.7-6(a)(2) by one hundred
550 and fifty percent (150%).

551 (4) Multiply the amount determined for each parent in section 704.7-6(a)(3) by the
552 proportion of time that the child spends with the other parent.

553 (5) Multiply the amount of the child's benefit by the proportion of the time the
554 child spends with the parent who is not receiving the child's benefit.

555 (6) Add the amount in section 704.7-6(a)(5) to the child support obligation
556 calculated in section 704.7-6(a)(4) for the parent who is receiving the child's
557 benefit.

558 (7) Offset the resulting amounts against each other. The parent with the greater
559 child support obligation is the shared-placement obligor. The shared-placement
560 obligor shall pay either the greater of the amount determined in this subsection or
561 the amount determined using the appropriate percentage standard under section
562 704.7-2.

563 704.7-7. Claiming Children for Tax Purposes. The Family Court may address who may claim
564 the child for tax purposes or accept a stipulation entered into by the parties regarding children and
565 taxes.

566 704.7-38. Deviation from ~~Standard Factors~~ the Percentage Standards. Upon request by a party,
567 the Family Court may modify the amount of child support payments determined by the percentage
568 standards if, after considering the following factors, the Family Court finds by the greater weight
569 of the credible evidence that use of the percentage standards is unfair to the child or to any of the
570 parties:

- 571 (a) The financial resources of the child;
- 572 (b) The financial resources of both parents;
- 573 (c) Maintenance received by either party;
- 574 (d) The needs of each party in order to support himself or herself at a level equal to or
575 greater than ~~that~~ the federal poverty line as established under 42 U.S.C. §9902 (2);
- 576 (e) The needs of any person, other than the child, whom either party is legally obligated to
577 support;
- 578 (f) The standard of living the child would have enjoyed if his or her parents were living
579 together;
- 580 (g) The desirability that the custodial parent remain in the home as a full-time parent;
- 581 (h) The cost of day care if the ~~eustodian-custodial parent~~ works outside the home, or the
582 value of custodial services performed by the ~~eustodian-custodial parent~~ if the ~~eustodian~~
583 custodial parent remains in the home;
- 584 (i) The award of substantial periods of physical placement to both parents;
- 585 (j) Extraordinary travel expenses incurred in exercising the right to periods of physical
586 placement;
- 587 (k) The physical, mental, and emotional health needs of the child, including any costs for
588 health insurance;
- 589 (l) The child's educational needs;
- 590 (m) The tax consequences to each party;
- 591 (n) The best interests of the child;
- 592 (o) The earning capacity of each parent, based on each parent's education, training and
593 work experience and the availability of work in or near the parent's community; and
- 594 (p) Any other factors which the Family Court in each case determines are relevant.

595 ~~Cross-reference: See also Rule CS-1 CHILD SUPPORT PERCENTAGE OF INCOME STANDARD.~~

596 704.7-59. Past-due and Arrears obligations.

- 597 (a) A party may request payment of arrears or past-due child support as follows:
 - 598 (1) In an action ~~pursuant to Chapter 703, Paternity,~~ regarding paternity, back to
 - 599 the date of birth of the child or date of application, whichever is later;
 - 600 (2) In a child support establishment or modification pursuant to this law, back to
 - 601 the date of application, review, or referral; or

602 (3) In an establishment or modification of placement pursuant to ~~Chapter 702 or~~
603 ~~Chapter 705, an action regarding divorce, annulment and legal separation or child~~
604 ~~custody, placement, and visitation,~~ back to the date of filing, or as otherwise ordered
605 by the Family Court.

606 (b) ~~An~~ A payment for arrears or a past-due payment shall be set based on the amount due
607 and the income available to pay current support.

608 (c) Once current child support is ended in any manner prescribed by law, child support
609 shall continue to be paid at the same rate, until all arrears or past due child support is paid
610 in full.

611
612 **704.8. Determining the Child Support Obligation in Special Circumstances ~~Content and~~**
613 **Effect of Order**

614 704.8-1.1.4-1. Determining the Child Support Obligation of a Serial-Family Obligor.

615 (a) Applicability. This ~~subsection~~ applies only if the ~~additional~~ support obligation ~~incurred~~
616 ~~by the obligor is the result of a child support order and the support obligation~~ being
617 ~~calculated is for children from a subsequent family or subsequent paternity judgment or~~
618 ~~acknowledgment.~~ An obligor may not use the provisions of this section as a basis for
619 ~~seeking modification of an existing order based on a subsequently incurred legal obligation~~
620 ~~for child support.~~

621 (b) Determination. For a serial-family obligor, the child support obligation incurred for a
622 marital or non-marital child in a subsequent family as a result of a child support order may
623 be determined as follows:

624 (1) Determine the obligor's monthly income.

625 (2) Determine the order of the obligor's legal obligations for child support by
626 listing them according to the date each obligation is incurred.

627 (A) For a marital child, the legal obligation for child support is incurred on
628 the child's date of birth.

629 (B) For a non-marital child, the legal obligation for child support is incurred
630 on the date ~~of the child support order~~ that paternity is legally established.

631 (C) For a non-marital ~~paternal~~ child in an intact family, it is incurred on the
632 date of adoption or the date ~~of the filing of an acknowledgement of paternity~~
633 that paternity is legally established.

634 (D) For a non-marital maternal child in an intact family, it is incurred on
635 the child's date of birth~~;~~.

636 (3) Determine the first child support obligation as follows:

637 (~~a~~A) If the obligor is subject to an existing support order for that legal
638 obligation, except a shared-placement order, the support for that obligation
639 is the monthly amount of that order; or

640 (~~b~~B) If the obligor is in an intact family, ~~has primary placement of another~~
641 child, or is subject to a shared-placement order, the support is determined
642 by multiplying the appropriate percentage for that number of children by
643 the obligor's monthly income~~;~~.

644 (4) Adjust the monthly income by subtracting the support for the first legal
645 obligation ~~under (3)~~ from the obligor's monthly income ~~under (1)~~;

646 (5) Determine the second child support obligation as follows:

- 647 (aA) If the obligor is subject to an existing support order for that legal
648 obligation, except a shared-placement order, the support for that obligation
649 is the monthly amount of that order; or
650 (bB) If the obligor is in an intact family or is subject to a shared-placement
651 order, the support is determined by multiplying the appropriate percentage
652 for that number of children by the obligor's monthly income.;
653 (6) Adjust the monthly income a second time by subtracting the support for the
654 second legal obligation ~~determined under (5)~~ from the first adjusted monthly
655 income ~~under (4)~~;
656 (7) Repeat the procedure ~~under (5) and (6)~~ for determining the child support
657 obligation and adjusting the monthly income for each additional legal obligation
658 for child support the serial family obligor has incurred.;
659 (8) Multiply the appropriate percentage for the number of children subject to the
660 new order by the final adjusted monthly income ~~determined in either (6) or (7)~~ to
661 determine the new child support obligation.

662 704.8-2. 1.4-2. Determining the Child Support Obligations of Shared-Placement Parents.

- 663 (a) Applicability. The shared-placement formula may be applied when both of the
664 following conditions are met:
665 (1) Both parents have periods of placement of at least twenty-five percent (25%)
666 or ninety-two (92) days a year. ~~When calculating periods of placement based on~~
667 ~~equivalent care, the total number of overnights may exceed three hundred and sixty-~~
668 ~~five (365). The period of placement for each parent shall be determined by~~
669 ~~calculating the number of overnights or equivalent care ordered to be provided by~~
670 ~~the parent and dividing that number by 365, the total number of overnights in a~~
671 ~~year. The combined periods of placement for both parents shall equal one hundred~~
672 ~~percent (100%).~~
673 (2) Each parent is ordered by the Family Court to assume the child's basic support
674 costs in proportion to the time that the parent has placement of the child.
675 (b) Determination. The child support obligations for parents who meet the requirements
676 ~~of (a) for the shared-placement formula~~ may be determined as follows:
677 (1) Determine each parent's monthly income.
678 (A) In determining whether to impute income based on earning capacity
679 for an unemployed parent or a parent employed less than full time ~~under~~
680 ~~1.3-2~~, the Family Court shall consider benefits to the child of having a
681 parent remain in the home during periods of placement and the additional
682 variable day care costs that would be incurred if the parent worked more.
683 (2) Multiply each parent's monthly income by the appropriate percentage standard
684 ~~under 704.7.~~
685 (3) Multiply each amount determined under ~~(2)~~ section 704.8-2(b)(2) by ~~one~~
686 ~~hundred and fifty percent (150%).~~
687 (4) Multiply the amount determined for each parent under ~~(3)~~ section 704.8-2(b)(3)
688 by the proportion of the time that the child spends with the other parent to determine
689 each parent's child support obligation.
690 (5) Offset resulting amounts under ~~(4)~~ section 704.8-2(b)(4) against each other.
691 The parent with a greater child support obligation is the shared-placement obligor.
692 The shared-placement obligor shall pay the lesser of the amount determined under
693 this section or the amount determined using the appropriate percentage standard
694 ~~under 704.7.~~ If the shared-placement obligor is also a low-income obligor, the child

695 support obligation may be the lesser of the amount determined under ~~this section~~
696 ~~or under 1.4.4~~ the shared placement determination or the low-income
697 determination.

698 (6) In addition to the child support obligation determined under ~~(5)~~ section 704.8-
699 ~~2(b)(5)~~, the Family Court shall assign responsibility for payment of the child's
700 variable costs in proportion to each parent's share of physical placement, with due
701 consideration to a disparity in the parents' incomes.

702 (A) The Family Court shall direct the manner of payment of a variable cost
703 order to be either between the parents or from a parent to a third-party
704 service provider.

705 (B) The Family Court shall not direct payment of variable costs to be made
706 to the Agency or the Agency's designee, except as incorporated in the ~~fixed~~
707 ~~sum or percentage expressed~~ child support order.

708 (7) A change in the child's variable costs shall not in and of itself be considered a
709 substantial change in circumstances sufficient to justify a modification of a
710 judgment or order under section 704.10.

711 704.8-3.1.4-3. *Determining the Child Support Obligations of Split-Placement Parents.*

712 (a) *Applicability.* The split-placement formula may be applied when ~~For parents who~~ have
713 two (2) or more children and each parent has placement of one (1) or more but not all of
714 the children, ~~the child support obligations may be determined as follows:~~

715 (b) *Determination.* The child support obligation for a split-placement parent may be
716 determined as follows:

717 (a1) Determine each parent's monthly income.

718 (b2) ~~Multiply each parent's monthly income by the appropriate percentage for the~~
719 ~~number of children placed with the other parent to determine each parent's child~~
720 ~~support obligation. Determine the appropriate percentage standard for the number~~
721 ~~of total children.~~

722 (3) Divide the appropriate percentage standard for the number of total children by
723 the total number of children.

724 (4) Multiply the number calculated in section 704.8-3(b)(3) by the number of
725 children placed with each parent.

726 (5) Multiply each parent's monthly income by the number calculated in 704.8-
727 ~~3(b)(4) based on~~ the number of children placed with the other parent to determine
728 each parent's child support obligation; and

729 (e6) Offset resulting amounts under ~~(b)~~ section 704.8-3(b)(5) against each other.
730 The parent with a greater child support obligation is the split-placement obligor.

731 704.8-4.1.4-4. *Determining the Child Support Obligation of a Low-Income Obligor.*

732 (a) *Applicability.* If an ~~the~~ obligor's total economic circumstances limit his or her ability
733 to pay support at the level determined ~~under 704.7~~ by the standard percentage standards,
734 then the low-income obligor standards found in the Child Support Obligation of Low-
735 Income Payers Schedule may be used.

736 (b) *Determination.* The Family Court may use the monthly support amount provided in
737 the ~~schedule in Appendix A~~ Child Support Obligation of Low-Income Payers Schedule as
738 the support amount for an obligor with a monthly income at a level set forth in the schedule
739 if the obligor's total economic circumstances limit his or her ability to pay support at the
740 level determined under 704.7.

741 (1) If an obligor's monthly income is below the lowest income level in ~~Appendix~~
742 ~~A~~ the Child Support Obligation of Low-Income Payers Schedule, the Family Court

743 may set an order at an amount appropriate for the obligor's total economic
744 circumstances. This amount may be lower than the lowest support amount in
745 Appendix A the Child Support Obligation of Low-Income Payers Schedule. (b) The
746 Agency shall revise the schedule in Appendix A at least once every four (4) years.
747 The revision shall be based on changes in the federal poverty guidelines since the
748 schedule was last revised.

749 704.8-1. The child support order shall provide for immediate wage withholding. An order to
750 withhold income shall be binding against future payors upon actual notice of the order through
751 service by personal delivery or certified mail upon the payor. Wages shall not be subject to
752 withholding only where:

753 (a) One of the parties demonstrates and the Family Court finds that there is good cause not
754 to require wage withholding due to one of the following:

755 (1) There is an error in the amount of current or overdue support; or

756 (2) The identity of the obligor is mistaken.

757 (b) The parties reach a written agreement which provides for an alternative arrangement
758 and is approved by the Family Court.

759 704.8-2. The Family Court may require a party, or both parties, to utilize the services available to
760 him or her to obtain and maintain regular employment and/or job training.

761 704.8-3. Support Order Notice Requirements. Each order for child support shall include an order
762 that the obligor and obligee notify the Agency of any change of address or name change within
763 ten (10) business days of such change. Each order for child support shall also include an order that
764 the obligor notify the Agency and the obligee of any change of employer or substantial change of
765 income within ten (10) business days of the change. A "substantial change of income" means the
766 obligor has a significant change in his or her finances that would lead to a change in child support
767 of either more than fifteen percent (15%) or fifty dollars (\$50.00) per month. An order under this
768 section is enforceable as contempt.

769 704.8-4. Collection and Distribution of Child Support. The Agency shall collect and distribute
770 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

771

772 **704.9. Child Support Order Enforcement of Order**

773 704.9-1. ~~1-3-5~~. Expression of Ordered Support. The child support amount shall be expressed as
774 a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the
775 obligor's income and the stipulation requirements of Chapter 704 are satisfied.

776 704.9-~~4~~2. Interest on Arrears. The ~~Tribe Nation~~ shall not charge a party an obligor ordered to
777 pay child support interest on any arrears.

778 704.9-~~2~~3. Income Wage Withholding. The child support order shall provide for immediate wage
779 income withholding.

780 (a) A copy of the Family Court's wage-income withholding order shall be sent by the
781 Agency to a payor within three (3) business days of the entry of the order of the Family
782 Court by any business method acceptable to the payor mail, fax, or electronic means.

783 (b) An order to withhold income shall be binding against future payors upon actual notice
784 of the income withholding order through service notice by mail, fax, or electronic means.
785 personal delivery or certified mail upon the payor.

786 (c) Income wages shall not be subject to withholding only where:

787 (a1) One of the parties demonstrates, and the Family Court finds, that there is good
788 cause not to require income wage withholding due to one of the following:

789 (1A) There is an error in the amount of current or overdue support; or

790 (2B) The identity of the obligor is mistaken.
791 (b2) The parties reach a written agreement which provides for an alternative
792 arrangement that is approved by the Family Court.

793 ~~(bd)~~ No payor shall refuse to honor ~~a wage an income~~ withholding order executed pursuant
794 to this law. A payor shall begin withholding income immediately after notice service of a
795 ~~wage an income~~ withholding order made pursuant to this law. Within five (5) business
796 days after the payor pays the obligor, the payor shall send the amount withheld to the
797 Agency Wisconsin Support Collections Trust Fund.

798 ~~(ee)~~ A payor shall be liable for one hundred percent (100%) of the child support order, or
799 the amount of money that should have been withheld from the obligor's earnings,
800 whichever is the lesser amount, if the payor:

801 (1) Fails or refuses, after being noticed of served with an income withholding order,
802 to deduct or promptly remit the amounts of money required in the order; ~~or~~

803 (2) Fails or refuses to submit an answer to the notice of wage income withholding
804 after being noticed served; or

805 (3) Is unwilling to comply with the other requirements of this law.

806 ~~(df)~~ A payor shall not discharge from employment, refuse to employ, or otherwise take
807 disciplinary action against any obligor solely because he or she is subject to wage income
808 withholding.

809 (1) When the Family Court finds that a payor has taken any of these actions, the
810 payor shall be liable for a civil penalty. Any payor who violates any provision of
811 this paragraph shall be liable in a civil action for reasonable damages suffered by
812 an obligor as a result of the violation, and an obligor discharged or demoted in
813 violation of this paragraph shall be entitled to be reinstated to his or her former
814 position.

815 (2) The statute of limitations for actions under this section shall be one (1) year.

816 ~~(eg)~~ A payor who repeatedly fails to comply with ~~a wage an income~~ withholding order as
817 required by this law may be subject to a fine, not to exceed five hundred dollars (\$500), or
818 have its Oneida vendor license revoked or suspended, if applicable, until compliance with
819 this law is assured.

820 (1) The vendor license issuing agency shall comply with the Family Court order to
821 revoke or suspend a vendor license.

822 ~~(fh)~~ If wage income withholding is inapplicable, ineffective or insufficient to ensure
823 payment of child support, the Family Court may require the obligor to establish an account
824 for the purpose of transferring child support payments.

825 ~~(gi)~~ The total amount withheld under an income withholding order shall not exceed the
826 maximum amount permitted under section 303(b) of the Consumer Credit Protection Act
827 (15 U.S.C. §1673(b)).

828 ~~(hj)~~ Non-Indian off-reservation payors shall be subject to income withholding under 28
829 U.S.C. §1738B.

830 704.9-4.704.8-2. Conditions of the Order. The Family Court may require a party, or both parties,
831 to use the services available to him or her to obtain and maintain regular employment and/or job
832 training.

833 704.9-5. Support Order Notice Requirements. Each order for child support shall include:

834 (a) An order that the obligor and obligee notify the Agency of any change of address or
835 name change within ten (10) business days of such change; and

836 (b) Each order for child support shall also include a An order that the obligor notify the
837 Agency and the obligee of any change of employer or substantial change of income within

838 ~~ten (10) business days of the change. A “substantial change of income” means the obligor~~
839 ~~has a significant change in his or her finances that would lead to a change in child support~~
840 ~~of either more than fifteen percent (15%) or fifty dollars (\$50.00) per month. An order~~
841 ~~under this section is enforceable as contempt.~~

842 704.9-6. Enforcement of Order. A child support order under this section is enforceable as
843 contempt.

844 704.9-7. Collection and Distribution of Child Support. The Agency shall collect and distribute
845 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

846 704.9-8. Trust. The Family Court may protect and promote the best interests of the minor
847 children by setting aside a portion of the child support that either party is ordered to pay in a
848 separate fund or trust for the support, education, and welfare of such children.

849 704.7-49-9. Non-Cash Payments.

850 (a) Non-cash payments may be used to satisfy part or all of a child support order if the
851 parties and the Family Court agree to allow non-cash payments. Non-cash payments shall
852 not be used to fulfill arrears. If non-cash payments are allowed, the order shall:

853 (1) state the specific dollar amount of the support obligation;

854 (2) state the maximum amount (in dollars) of non-cash payment that the obligee
855 will accept;

856 (3) describe the type(s) of non-cash payment that is permitted;

857 (4) provide that non-cash payment cannot be used to satisfy assigned child support
858 obligations.

859 (b) When both parents are in agreement that non-cash payments may be used to satisfy a
860 child support obligation, the non-cash payment may include, but is not limited, to the
861 following:

862 (1) Clothing;

863 (2) Groceries;

864 (3) Child Care;

865 (4) Deer/Venison;

866 (5) Wood;

867 (6) Transportation;

868 (7) Skilled trades or services, such as car repairs, lawn care and snow removal;

869 and/or

870 (8) Gift cards.

871 (c) When a non-cash payment is used to satisfy part or all of a child support order, the
872 obligor and obligee shall submit any forms required by the Agency within the month that
873 the non-cash payment is made. If there are less than five (5) business days left in the month
874 when a non-cash payment is made, the obligor and obligee have five (5) business days to
875 submit any required forms to the Agency. The Agency shall be responsible for applying
876 the non-cash payment towards the child support order during the appropriate month.

877 704.9-3. In the event that an obligor is at least one (1) month delinquent in paying his or her child
878 support obligation, he or she may be subject to the following enforcement actions:

879 (a) increase in amount of wages withheld

880 (b) placement on lien docket;

881 (c) credit bureau reporting;

882 (d) intercept of income and/or other payments;

883 (e) seizure of personal property;

884 (f) suspension of licenses;

885 (g) denial of passport;

- 886 ~~(h) commitment to jail;~~
887 ~~(i) charge of contempt;~~
888 ~~(j) referral for criminal charges;~~
889 ~~(k) any other enforcement action included in this law or in a rule that is established under~~
890 ~~this law.~~

891 ~~Cross-reference: See also Rule CS 2 ENFORCEMENT TOOLS.~~

892

893 **704.10. Modification of a Child Support Order**

894 704.10-1. *Review of the Child Support Order.* Every two (2) years, the Agency shall conduct a
895 review of the child support order. The Agency shall notify the non-custodial parent, custodial
896 parent, and any interested party that a review of their child support order will shall be conducted.

897 ~~704.10-2. *Modification of Child Support Sought by the Agency.* After the two (2) year review is~~
898 ~~conducted by the Agency, the Agency shall seek an order to modify the child support obligation if~~
899 ~~there is a substantial change in circumstances, unless otherwise stipulated by the parties an order~~
900 ~~to update the child support obligation will be sought by the Agency if there is a substantial change~~
901 ~~in circumstances. A substantial change in circumstance means includes, but is not limited to:~~

- 902 (a) the child's placement is changed;
903 (b) either parent or the child has a significant change in his or her finances that would lead
904 to a change in child support of ~~either~~ more than fifteen percent (15%) ~~or and~~ fifty dollars
905 (\$50.00) per month;
906 (c) the obligee is receiving public assistance benefits and is required to have a current
907 support order in place;
908 (d) it has been twenty-four (24) months since the date of the last child support order or
909 revision to the child support order, unless the child support amount is expressed as a
910 percentage; or
911 (e) a change has occurred and if the current circumstances had been in place at the time
912 the order was issued, a significantly different order would have been issued.

913 704.10-~~23~~. *Modification of Child Support Sought by the Parties.* Either party, not including the
914 Agency, may file a motion for a modification of a child support order at any time based upon a
915 substantial change of circumstances supported by affidavit.

- 916 (a) Such motion shall state why the previous decision should be prospectively modified.
917 (b) The motion and affidavit shall be served by the moving party on the responding party
918 by first-class mail to the recently verified last-known address, or by any method provided
919 by law.
920 (c) A hearing date shall be scheduled no sooner than ten (10) calendar days after the date
921 of service.

922 704.10-~~34~~. An obligor shall not raise a substantial change in circumstances as a reason not to pay
923 a past due reward current child support order or arrears. If a child support ~~award~~ order becomes
924 unjust due to a substantial change in circumstances of the obligor, the obligor has the duty to file
925 a petition or motion with the Family Court for a ~~changed award~~ modification to the child support
926 order at that time. ~~He or she may not raise that change in circumstances as a reason not to pay a~~
927 ~~past due award.~~

928 ~~704.10-4. A change in the percentages shall constitute a substantial change in circumstances and~~
929 ~~shall justify prospective modification of a child support order.~~

930

931 **704.11. Modification of a Child Support Order for an Incarcerated Parent** ~~Full Faith and~~
932 ~~Credit for Foreign Child Support Orders~~

933 704.11-1. In the event an obligor is incarcerated for one hundred and eighty (180) days or more,
934 the obligor shall have the right to have the Agency review his or her child support order to
935 determine if modification or suspension of the child support order is appropriate. The obligor shall
936 notice the Agency of his or her incarceration.

937 (a) An ordered child support obligation shall be suspended for an incarcerated obligor who
938 has been sentenced to one hundred and eighty (180) days or more and has an income of
939 less than two hundred dollars (\$200) per month.

940 (b) If while incarcerated the obligor's income is two hundred dollars (\$200) or more per
941 month the Agency shall review the order and seek temporary modification of the child
942 support order based on the incarcerated obligor's income, if necessary.

943 (c) Child support obligations shall not be suspended or modified for an obligor who is
944 incarcerated for a criminal offense which includes:

945 (1) felony failure to pay support;

946 (2) a crime against a child; and/or

947 (3) a crime against the obligee.

948 (d) Past due child support related debt and/or arrears shall not be suspended or reduced as
949 a result of the obligor's incarceration without stipulation by the parties.

950 704.11-2. Notification of Review. Within fifteen (15) business days of the receipt by the Agency
951 of verification of the obligor's incarceration, the Agency shall send out a letter to the parties of the
952 case informing them of the obligor's right to have his or her child support obligation reviewed,
953 and of the Agency's intent to review the current child support order.

954 704.11-3. Agency Review of Order. The Agency shall review the obligor's child support order
955 and make one of the following determinations:

956 (a) that the obligor's income while incarcerated is two hundred dollars (\$200) or more per
957 month, and the Agency shall seek temporary modification of the obligor's child support
958 order based on the incarcerated obligor's income, if necessary; or

959 (b) that the obligor's income while incarcerated is less than two hundred dollars (\$200)
960 per month, and the Agency shall seek temporary suspension of the obligor's child support
961 order while incarcerated.

962 704.11-4. Suspension of Order by the Agency. If the Agency determines the obligor's income is
963 less than two hundred dollars (\$200) per month while incarcerated, the Agency shall file with the
964 Family Court a Motion and Order to Suspend without a request for a hearing with notice to all
965 parties that the child support order shall be suspended.

966 (a) Either party shall have the right to object to the suspension of the order within ten (10)
967 business days of the date of the notice by filing such objection with the Family Court and
968 providing a copy of the objection to the Agency.

969 (b) If no objection to the suspension is received, the Family Court shall enter the order as
970 proposed.

971 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
972 hearing on the issue.

973 704.11-5. Modification of Order by the Agency. If the Agency determines the obligor's income
974 is two hundred dollars (\$200) per month or more while incarcerated, the Agency shall file with the
975 Family Court a Motion and Order to Modify.

976 (a) The Family Court shall schedule a hearing on the motion. The Agency shall provide
977 notice to all parties with the proposed modification to the child support order by first class
978 mail at least ten (10) business days prior to the hearing.

979 (b) If no objection to the modification is received at the hearing, the Family Court shall
980 enter the order as proposed.

981 704.11-6. *Modification of the Order by the Incarcerated Parent.* The incarcerated parent may
982 seek modification of his or her own child support order by filing a motion to modify with the
983 Family Court in accordance with section 704.10-3.

984 704.11-7. If during the term of incarceration, the Agency receives notification of a change in the
985 obligor's employment and/or income, the Agency shall review the obligor's order and determine
986 if the obligor's income is two hundred dollars (\$200) or more per month, and whether it is
987 necessary to temporarily modify or suspend the obligor's child support order.

988 (a) If the Agency determines that suspension of the obligor's order is necessary, then the
989 procedure for filing a Motion and Order to Suspend without a request for a hearing
990 described in section 704.11-4 shall be followed.

991 (b) If the Agency determines that modification of the obligor's order is necessary, then the
992 procedure for filing a Motion to Modify described in section 704.11-5 shall be followed.

993 704.11-8. *Reinstatement of Prior Order.* Sixty (60) days after the obligor's release from
994 incarceration, the child support order shall be administratively reinstated by the Agency to the
995 previous child support order in effect before the suspension or modification of the order based on
996 the obligor's incarceration.

997 (a) The Agency shall send notice to both parties of the obligor's release from incarceration
998 and the intent of the Agency to reinstate the original order.

999 ~~704.11-1. Properly issued child support orders, and judgments or decrees of other Indian tribes,~~
1000 ~~tribal organizations and states, that relate to child support shall be recognized and modified in~~
1001 ~~accordance with the requirements under the Full Faith and Credit for Child Support Orders Act,~~
1002 ~~28 U.S.C. 1738B.~~

1003 ~~704.11-2. A foreign order is authenticated by reasonable proof that the document tendered to the~~
1004 ~~Family Court is a true copy of the foreign order as it is recorded in the agency or court of the~~
1005 ~~issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records, or a~~
1006 ~~court seal, is sufficient evidence of authenticity.~~

1007 ~~704.11-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person~~
1008 ~~contesting enforcement of the order has the burden of showing the order is not valid. Upon a~~
1009 ~~failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it~~
1010 ~~as a Family Court order.~~

1011 ~~704.11-4. If a foreign order is brought before the Family Court solely for an interpretation of the~~
1012 ~~terms of the order, and the order has been recognized and given full faith and credit by the~~
1013 ~~Family Court, the Family Court shall interpret the order by applying the law of the forum that~~
1014 ~~issued the foreign order.~~

1015
1016 **704.12. Compliance Plan-Right of Appeal**

1017 ~~704.12-1. 2.3-1. The Agency shall attempt to meet with a party who is found to be subject to~~
1018 ~~enforcement action as soon as possible by sending a Letter of Non-Compliance within five (5)~~
1019 ~~business days of being informed of a party's failure to either pay support as ordered or to meet a~~
1020 ~~required obligation or action. If at any time an obligor is, or may become, non-compliant with his~~
1021 ~~or her child support order by failing to pay support as ordered or meeting a required obligation or~~
1022 ~~action, the Agency shall meet with the obligor to develop a compliance plan.~~

1023 704.12-2. An Appointment Letter may be sent by the Agency at any time deemed appropriate, but
1024 the Agency shall send out the Appointment Letter at least thirty (30) days prior to the initiation of
1025 any enforcement action.

1026 (a) The Letter of Non-Compliance shall set out the conditions the party has failed to
1027 comply with, outline the enforcement actions that may be taken, and request the party meet
1028 with the Agency to discuss barriers to payment and how to avoid future enforcement action.

1029 (b) If the party does not respond to the Letter within five (5) business days after receipt of
1030 the letter, the Agency shall send a second Letter.

1031 (c) If the party fails to respond to the second Letter within five (5) business days after
1032 receipt of the letter, the Agency may proceed with appropriate enforcement action.

1033 (c) If the party obligor responds to the Letter, the Agency shall interview the party to
1034 determine the reasons and barriers for the non-compliance and create a compliance plan.
1035 The compliance plan may include an increase in payment and/or any activity that is
1036 necessary to ensure assist in payment, including programs that focus on:

- 1037 (1) Employment and training;
1038 (2) Social service and mental health;
1039 (3) Physical and learning disabilities;
1040 (4) Tribal traditions and customs;
1041 (5) Family counseling and parenting; and
1042 (6) Any other program deemed necessary.

1043 (d) If the party successfully completes the compliance plan, no further enforcement action
1044 is necessary. However, if the party fails to complete the compliance plan, the Agency shall
1045 proceed with appropriate enforcement action.

1046 704.12 1. Any enforcement action implemented by the Agency may, within thirty (30) calendar
1047 days after the date that the action is enforced, be appealed to the Family Court. The decision of
1048 the Family Court shall be final.

1049 704.12 2. If the Family Court conducts a hearing under this law, a party may, within thirty (30)
1050 calendar days after the date that the Family Court makes a decision, appeal that decision to the
1051 Court of Appeals of the Judiciary. The appellate body review shall be based on the record and
1052 the original decision of the Family Court.

1053

1054 **704.13. Enforcement of an Order**

1055 704.13-1. An obligor may be subject to enforcement actions when the obligor is at least one (1)
1056 month delinquent in paying his or her child support obligation. Enforcement actions may include
1057 administrative enforcement action by the Agency and enforcement action by the Family Court.

1058 (a) An obligor shall be provided with notice of an enforcement action of at least thirty (30)
1059 days before an enforcement action is used, unless another timeline is specified.

1060 (b) An enforcement action shall be stayed and/or suspended after notice is given to the
1061 obligor if the obligor pays the debt in full or enters into, and maintains, an alternative
1062 payment plan and/or a compliance plan with the Agency.

1063 704.13-2. 704.9 1. Agency Responsibilities in the Enforcement of an Order. The Agency shall
1064 have the following responsibilities in the enforcement of an order:

1065 (a) Track and document the progress of an obligor who is under an enforcement action;

1066 (b) Take additional enforcement action when an obligor fails to comply with a previous
1067 enforcement action;

1068 (c) Document the reasons why an enforcement action is not taken, when such action would
1069 have been appropriate under the circumstances; and

1070 (d) Assist in Rrefunding amounts that were improperly withheld, terminate income
1071 withholding when appropriate, and allocate amounts across multiple cases.

1072 704.13-3. ~~2.4-2~~ Notice to the Obligor of Delinquency. In the event that an obligor owes a debt
1073 equal to or exceeding the monthly amount due, the Agency shall send a notice of delinquency to
1074 the obligor. ~~(a)~~ The notice of delinquency shall inform the obligor of the following:

- 1075 (1) The dates that the delinquency accrued;
1076 ~~(2a)~~ The total amount of the delinquency; and
1077 ~~(3)~~ Any prior agreement or showing of good cause to not wage withhold may be
1078 terminated and the obligor may be subject to wage withholding;
1079 ~~(4b)~~ The enforcement action that may be taken as a result of the delinquency.
1080 ~~(5)~~ The obligor may request, in writing to the Agency, to negotiate an alternative
1081 payment plan with the Agency within ten (10) business days after the service of
1082 notice in order to stay any enforcement action;
1083 ~~(6)~~ The obligor has ten (10) business days after the service of the notice of
1084 delinquency to file an objection with the Agency presenting good cause why an
1085 arrears payment or other enforcement action should not be implemented. The
1086 only allowable objections are:
1087 ~~(A)~~ There is an error in the amount of current or overdue support; or
1088 ~~(B)~~ The identity of the obligor is mistaken.

1089 704.13-4. Notice to the Obligor of Enforcement Action. After the obligor has been noticed of his
1090 or her delinquency, and at least twenty (20) days prior to an enforcement being used against an
1091 obligor, the Agency shall send a notice of enforcement action to the obligor.

- 1092 (a) The notice of enforcement action shall inform the obligor of the following:
1093 (1) The total amount of the delinquency;
1094 (2) The enforcement action that may be taken as a result of the delinquency;
1095 (3) The obligor may request, in writing to the Agency, to negotiate an alternative
1096 payment plan with the Agency within ten (10) business days after the notice in order
1097 to stay any enforcement action;
1098 (4) The obligor has ten (10) business days after the notice of enforcement action to
1099 file an objection with the Agency presenting good cause why an arrears payment
1100 or other enforcement action should not be implemented. The only allowable
1101 objections are:
1102 (A) There is an error in the amount of current or overdue support; or
1103 (B) The identity of the obligor is mistaken.

1104 (b) If the obligor does not file an objection or request to negotiate an alternative payment
1105 plan:

- 1106 (1) the enforcement action shall be taken; and/or
1107 (2) an ~~income~~ wage withholding order, or revised order if one is already in place,
1108 shall be imposed on the payor. No more than an additional twenty percent (20%)
1109 of the current support payment order can be withheld to satisfy the delinquency
1110 provided that the total amount withheld does not exceed forty percent (40%) of the
1111 obligor's monthly income.

1112 (c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any
1113 enforcement action is taken.

1114 704.13-5. ~~2.4-3~~ Use of Mail for Notices. The Agency shall send notices related to the delinquency
1115 of an obligor and enforcement of a child support order by mail to the last-known mailing address
1116 provided by the obligor.

1117 (a) If the notice is returned, the Agency shall send notice to the obligor using the current
1118 employer mailing address provided by the obligor.

1119 (b) If the notice to the obligor mailed to the obligor's employer is returned, the Agency
1120 shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's
1121 current mailing address.

1122 (c) If those resources are used for a period of ~~sixty~~ thirty (30) days and a verified mailing
1123 address has not been identified, the Agency may proceed with the administrative
1124 enforcement action.

1125 704.13-6. 2.4-4. Notice to the Obligee of Enforcement Proceedings. The Agency shall provide
1126 written notice to the obligee when an enforcement action has been initiated against the obligor or
1127 when the obligor requests a hearing and the hearing has been scheduled. The notice to the obligee
1128 shall be sent at the same time notice is sent to the obligor.

1129 704.13-7. 2.4-5. Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest
1130 in Property. The Agency shall provide notice related to the seizure of property to any individual,
1131 other than the obligor, with a recorded ownership interest in property subject to seizure. The
1132 individual may request a hearing for a determination of the proportion of the value of the property
1133 that is attributable to his or her net contribution to the property. The hearing shall be requested
1134 within thirty (30) days after the notice was received by the individual.

1135 **704.14. Alternative Payment Plans**

1136 704.14-1. 2.9-1 Applicability of Alternative Payment Plans. When an obligor is subject to
1137 administrative enforcement action, he or she may negotiate an alternative payment plan with the
1138 Agency.

1139 704.14-2. 2.9-2 Negotiation of an Alternative Payment Plan After Receiving Notice of an
1140 Enforcement Action.

1141 (a) In order to negotiate an alternative payment plan, an obligor shall submit a written
1142 request to the Agency.

1143 (1) A written request to negotiate an alternative payment plan received by the
1144 Agency within ten (10) business days after the date of notice shall stay any
1145 administrative enforcement action.

1146 (2) If a written request to negotiate an alternative payment plan is received by the
1147 Agency more than ten (10) business days after the date of notice, administrative
1148 enforcement action may be taken, as long as the requirements of 2.9-3 and 2.9-4
1149 for staying or suspension of administrative enforcement actions are met.

1150 (b) An obligor may negotiate a plan with the Agency to have a license ~~suspension lifted~~
1151 ~~issued or renewed after it has been restricted, limited, suspended or refused.~~

1152 (c) ~~Hearings for Negotiations of an Alternative Payment Plan.~~ The obligor may submit a
1153 written request for a hearing ~~on the reasonableness of the plan within ten (10) business~~
1154 ~~days after the terms of the plan are agreed upon with the Family Court regarding~~
1155 ~~negotiations of an alternative payment plan in the following circumstances:~~
1156 ~~(1) The obligor and the Agency have agreed to terms of a plan, but the obligor~~

1157 ~~wants the Family Court to consider the reasonableness of the plan.~~

1158 ~~(A) The ~~the~~ obligor may submit this a written request for a hearing on the~~
1159 ~~reasonableness of the plan within ten (10) business days after the terms of~~
1160 ~~the plan are agreed upon.~~

1161 ~~(2) If the Agency and the obligor ~~The obligor and the Agency~~ are unable to reach~~
1162 ~~agreement on the terms of a plan a hearing may be conducted.~~
1163

1164 (A) The Family Court may order a plan by setting conditions and/or
1165 payments in the amounts and at the times it considers reasonable.
1166 (d) ~~2.9-5. Proceeding with Administrative Enforcement Actions.~~ The Agency may
1167 continue with the administrative enforcement action if:
1168 (1a) the obligor and the Agency are unable to negotiate a plan;
1169 (2b) the Family Court determines that the plan is not reasonable; and/or
1170 (3e) the Family Court does not order a plan.
1171 704.14-3. ~~2.9-6 Disclosure of Income and Assets.~~ The request to negotiate a plan shall include an
1172 agreement by the obligor to provide the Agency with a full disclosure of income and assets
1173 available. The obligor shall provide complete income and assets information to the Agency within
1174 five (5) business days of the request to negotiate a plan.
1175 704.14-4. ~~2.9-7 Terms of an Alternative Payment Plan.~~
1176 (a) An alternative payment plan may include a lump-sum payment, or periodic payments
1177 on the arrears, or both, subject to the following standards:
1178 (1) The sum of any periodic payment established under the plan and any other
1179 payment of support ordered by the Family Court, when subtracted from the
1180 obligor's gross income, may not leave the obligor below one hundred percent
1181 (100%) of the poverty line established under 42 U.S.C. §9902 (2) unless the obligor
1182 agrees otherwise.
1183 (2) When establishing an alternative payment plan, the Agency shall consider the
1184 factors used by the Family Court in determining whether the use of the percentage
1185 standard is unfair to the child or any of the parties.
1186 (b) Periodic payments under the plan may be made through income withholding in
1187 amounts in addition to the amount ordered in the child support order that is in effect.
1188 704.14-5. ~~2.9-3. Staying Administrative Enforcement Actions.~~ Administrative enforcement actions
1189 shall be stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a
1190 hearing is requested because an agreement cannot be reached or the reasonableness of the plan is
1191 questioned, until the Family Court determination has been made. To stay an administrative
1192 enforcement action means the following:
1193 (a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of
1194 professional, occupational, fishing, recreational, motor vehicle and/or Oneida-issued
1195 Licenses any State or Oneida-issued licenses;
1196 (b) Any frozen financial accounts shall remain frozen and shall not be seized; and
1197 (c) Personal property that has been seized shall not be sold.
1198 704.14-6. ~~2.9-4. Suspension of Administrative Enforcement Actions.~~
1199 (a) When a plan has been negotiated between the obligor and the Agency, or the Family
1200 Court has determined that a plan is reasonable or has ordered a plan, the Agency shall
1201 suspend administrative enforcement actions as long as the obligor complies with the plan
1202 or requests a hearing because of a substantial change in circumstances.
1203 (b) If an obligor makes an full arrears payment agreeable to the Agency, the administrative
1204 enforcement action shall be suspended.
1205 704.14-7. ~~2.9-8. Default on an Alternative Payment Plan.~~ In the event that the obligor defaults on
1206 the plan, the Agency shall notify the obligor in writing that an administrative enforcement action
1207 shall be implemented unless the child support lien is paid in full.
1208 704.14-8. ~~2.9-9. Renegotiation of an Alternative Payment Plan.~~ After the entry of an alternative
1209 payment plan, the plan may be renegotiated upon the written request of the obligor or Agency if
1210 the requesting party can show a substantial change in circumstances. A substantial change in
1211 circumstances includes any of the following:

- 1212 (a) A change in the obligor's income or assets, including the sale or purchase of real or
1213 personal property;
1214 (b) A change in the obligor's earning capacity; and/or
1215 (c) Any other factor that the Agency determines is relevant.

1216 2.9-10. *Obligors with Cases in Multiple Jurisdictions.*

1217 (a) When multiple child support agencies initiate administrative enforcement actions
1218 against the same obligor, and the obligor negotiates an alternative payment plan with one
1219 of the agencies, the plan does not preclude any other child support agency from
1220 proceeding with its administrative enforcement action.

1221 (b) If a child support agency which has a lien against property of an obligor negotiates an
1222 alternative payment plan with the obligor, the agency may receive proceeds from the sale
1223 of the obligor's personal property under the lien including, but not limited to, proceeds
1224 from administrative enforcement actions taken by other child support agencies.

1225

1226 **704.15. Administrative Enforcement Action**

1227 704.15-1. The Agency shall have the authority to use administrative enforcement actions to
1228 enforce a child support order without obtaining an order from the Family Court in the event that
1229 an obligor is at least one (1) month delinquent in paying his or her child support obligations.

1230 704.15-2. ~~2.5-1~~ *Liens.* The Agency shall have an obligor placed on the lien docket if the obligor
1231 owes a debt in one or more of the obligor's cases equal to or exceeding the monthly amount due
1232 or five hundred dollars (\$500.00), whichever is greater.

1233 (a) ~~2.5-2~~ *Lien Amount.* The lien amount on the lien docket shall equal the sum of lien
1234 amounts from the cases in which the lien amount meets or exceeds the lien threshold.

1235 (b) ~~2.5-3~~ *Filing Date.* The filing date on the lien docket is the date that a lien is first
1236 docketed and delivered to the register of deeds. The filing date is the effective date of the
1237 lien. The effective date does not change if the lien amount is adjusted up or down within
1238 five (5) years after the date that the lien is first docketed.

1239 (c) ~~2.5-4~~ *Lien Priority.* The child support lien shall have priority over all other liens on
1240 property except:

1241 (1) tax and special assessment liens;

1242 (2) purchase money mortgages;

1243 (3) construction liens;

1244 (4) environmental liens;

1245 (5) liens that are filed or recorded before the child support lien becomes effective;
1246 and

1247 (6) any other lien given priority under the law.

1248 (d) ~~(a)~~ Property subject to a lien includes personal property in which the obligor has a
1249 recorded ownership interest.

1250 (e) *Effect on a Good Faith Purchaser.* ~~(b)~~ A child support lien is not effective against a
1251 good faith purchaser of titled personal property unless the lien is recorded on the title.

1252 (f) ~~2.5-5~~ *Credit Bureau Reporting.* The Agency may report the total amount of an obligor's
1253 liens to the credit bureau, so long as the lien is fully enforceable and the case is not barred
1254 from credit bureau reporting.

1255 ~~2.5-6. Denial of State-issued Grants and Loans.~~ Wisconsin state agencies may deny grants
1256 and loans to an obligor who is placed on the lien docket. These grants and loans include
1257 student loans and higher education grants, as well as mortgage loans from the Wisconsin
1258 Housing and Economic Development Authority (WHEDA).

- 1259 (g) Agency Lien Responsibilities. 2.5-7 ~~The Agency shall, either on its own or in~~
1260 ~~conjunction with the State,~~ be responsible for:
- 1261 (a1) updating the lien docket periodically;
 - 1262 (b2) providing a copy of the lien docket to the appropriate register of deeds;
 - 1263 (e3) responding to inquiries concerning information recorded on the lien docket;
 - 1264 (d4) ensuring the satisfaction of a lien is recorded on the lien docket;
 - 1265 (e5) renewing a lien if the lien amount equals or exceeds the lien threshold at the
1266 end of the five (5) year effective period;
 - 1267 (1A) When a lien is renewed, the date on which the lien is renewed shall
1268 become the effective date of the lien, and a new five (5) year period shall
1269 commence.
 - 1270 (f6) sending the obligor a notice when a lien has been renewed; and
 - 1271 (g7) developing procedures for releasing a lien and releasing specific property from
1272 a lien.
- 1273 (h) 2.5-8 Financial Record Review.
- 1274 (a1) An obligor may request a financial record review, in writing to the Agency
1275 within ten (10) business days of the date of notice of a lien, to determine the
1276 correctness of the financial records in a case. ~~The request shall be made in writing~~
1277 to the Agency.
 - 1278 (b2) Upon receiving a request for a financial record review, the Agency shall, at
1279 no charge to the obligor, provide the obligor with:
 - 1280 (+A) all relevant financial records;
 - 1281 (2B) information explaining how to interpret the records; and
 - 1282 (3C) a form the obligor may use to identify any alleged errors in the records.
 - 1283 (e3) Within twenty (20) days after receiving the relevant financial records, the
1284 obligor may:
 - 1285 (+A) request a meeting with the Agency to review the financial records and
1286 to discuss any alleged errors; and/or
 - 1287 (2B) provide a statement of alleged error on the documents.
 - 1288 (Ai) The Agency shall review the records to determine whether the
1289 alleged error is correct and provide a written determination within
1290 sixty (60) days after the obligor's request for a financial record
1291 review is received as to whether the lien against the obligor is in the
1292 correct amount.
 - 1293 (d4) The Agency may proceed with the lien if:
 - 1294 (+A) the obligor does not request a meeting with the Agency or provide a
1295 statement of alleged error within twenty (20) days after receiving the
1296 financial records; ~~or~~
 - 1297 (2B) no errors are found in the financial records of the case; or
 - 1298 (3C) the arrears exceed the required threshold amount after any errors in
1299 the financial records are corrected.
- 1300 704.15-3. Seizure of Property. 2.6-1. When seizing property, ~~The Agency shall have the authority~~
1301 ~~to seize property, whether an account or personal property, of an obligor. The Agency shall~~
1302 presume that an obligor's equity or ownership in the property is an equal pro-rata share of the
1303 equity or ownership based on the number of individuals with a recorded ownership interest in the
1304 property.

1305 (a) 2-6-2 Account Seizure. Once a lien is placed against an obligor, the Agency may initiate
1306 an account seizure if there is a lien against an obligor and the lien amount in the obligor's
1307 case equals or exceeds three hundred percent (300%) of the monthly amount due in the
1308 order, or one thousand dollars (\$1,000), whichever is greater.

1309 (a1) The Agency may not issue a notice of seizure unless the sum of the funds in
1310 all of the obligor's financial accounts, minus expected seizure fees and any early
1311 withdrawal penalty, exceeds five hundred dollars (\$500). The first five hundred
1312 dollars (\$500) of each account shall not be frozen and/or seized.

1313 (b2) The notice issued by the Agency shall instruct the financial institution of the
1314 following:

1315 (1A) The maximum amount frozen in an account may not exceed the
1316 amount specified by the Agency in the notice.

1317 (2B) The maximum amount frozen in an account may not exceed the
1318 obligor's ownership interest.

1319 (3C) A financial institution is not liable for encumbering or surrendering
1320 any assets held by the financial institution in response to instructions from
1321 the Agency for the purpose of enforcing a child support order.

1322 (b) 2-6-3 Seizure of Personal Property Other than Financial Accounts. In addition to the
1323 requirements under (a) and (b) below, Once a lien is placed against an obligor, the Agency
1324 may initiate the seizure of personal property if there is a lien against an obligor and the lien
1325 amount equals or exceeds six hundred percent (600%) of the monthly amount due in the
1326 order. Upon issuance of a written order of execution, non-exempt personal property may
1327 be seized and sold in a reasonable manner after notice to the owner in payment of a child
1328 support obligation that has been adjudicated delinquent by the Family Court. Ceremonial
1329 or religious property and real property are exempt from such writs of execution

1330 (a1) Personal Property. The Agency may seize personal property if the obligor's
1331 equity in the property, minus expected seizure fees, exceeds five hundred dollars
1332 (\$500) per item total.

1333 (b) The Tribe's "Disposition of Excess Tribal Property Policy" shall not apply to
1334 any property seized under this law.

1335 (2) Ceremonial or religious property and/or real property are exempt and shall not
1336 be seized by the Agency.

1337 (3) Process for Seizing Property. The Agency shall follow the following process
1338 for seizing personal property:

1339 (A) The Agency shall notify the obligor of the intent to request the Family
1340 Court to issue an order of execution for the seizure of property.

1341 (B) The Agency shall request the Family Court to grant a written order of
1342 execution for the seizure of property. The Agency shall provide the Family
1343 Court an affidavit that notice of this request has been provided to the
1344 obligor.

1345 (C) Upon issuance of a written order of execution by the Family Court,
1346 non-exempt personal property may be seized and sold in a reasonable
1347 manner.

1348 704.15-4. Attachment of Per Capita Payments. The Agency may initiate the attachment and/or
1349 seizure of per capita payments of tribal members of the Nation in accordance with applicable laws
1350 of the Nation.

1351 704.15-5. 2-7-2 License Suspension. (a) The Agency may initiate the suspension or denial of
1352 occupational, fishing, recreational, motor vehicle and/or Oneida issued licenses both State and

1353 Oneida issued licenses if there is a lien against an obligor that equals or exceeds three hundred
1354 percent (300%) of the monthly amount due in the child support order, or one thousand dollars
1355 (\$1000), whichever is greater.

1356 (a) The types of State or Oneida issued licenses that the Agency may initiate the suspension
1357 or denial of include, but are not limited to, vendor, professional, occupational, hunting,
1358 fishing, recreational, and/or motor vehicle licenses.

1359 (b) ~~Suspension of an occupational and/or motor vehicle license shall be pursued only as a~~
1360 ~~last resort and~~ the Agency shall not initiate the suspension of an occupational and/or motor
1361 vehicle license(s) if:

1362 (1) there is an order in place that prohibits the suspension of the license(s);

1363 (2) the obligor has filed for bankruptcy; or

1364 (3) action has already been taken to suspend the license.

1365 (bc) When an Oneida-issued license is suspended, that suspension shall be binding on and
1366 given effect by the license issuing agencies. Orders affecting licenses issued by other
1367 governmental agencies shall be sent to such agencies for enforcement.

1368 704.15-6. ~~Intercept of Lump-Sum Pension Payments, Judgments, and Settlements Intercepts.~~
1369 Once an obligor has been placed on the lien docket the Agency may initiate the intercept of lump-
1370 sum pension payments, judgments and/or settlements ~~when an obligor has been placed on the lien~~
1371 ~~docket.~~

1372 (a) When initiating the intercept of lump-sum pension payments, judgments and/or
1373 settlements, the Agency shall specify in the notice that the amount withheld from the lump-
1374 sum pension payment, judgment or settlement may not exceed the obligor's ownership
1375 interest in the payment.

1376 704.15-7. Tax and Lottery Intercepts. The Agency may coordinate with a federal or state agency
1377 in order to enforce a child support order through a tax and/or lottery intercept. Once an obligor
1378 has been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice
1379 is valid until all arrears are paid in full.

1380 (a) Federal Tax Intercept. The Agency may certify a federal tax intercept when the
1381 requirements pertaining to federal tax intercept contained in an agreement between the
1382 State and the Nation have been met.

1383 (b) Wisconsin State Tax and/or Lottery Intercept. The Agency may certify a Wisconsin
1384 state tax intercept and/or a Wisconsin state lottery intercept, when the lottery winnings are
1385 one thousand dollars (\$1,000) or more, when the following requirements are met:

1386 (1) The arrears shall be at least one hundred and fifty dollars (\$150);

1387 (2) The arrears shall be at least thirty (30) days old; and

1388 (3) The arrears shall be for a minor child or a child who has reached the age of
1389 eighteen (18) within the last twenty (20) year.

1390 (c) Wisconsin Lottery Intercept. When a case is certified for Wisconsin state tax
1391 intercept, it shall also be automatically certified for Wisconsin lottery intercept for lottery
1392 winnings of one thousand dollars (\$1,000) or more.

1393 704.15-8. ~~2.7-5~~ Passport Denial. If a federal tax intercept is in place and the obligor owes five
1394 two thousand five hundred dollars (\$25,500) or more in arrears, an obligor may be denied a
1395 passport. The arrears must meet the criteria for federal tax intercept in order for passport denial to
1396 be used as an enforcement tool. An obligor shall be removed from the passport denial list if:

1397 (a) The federal tax intercept certification amount is zero (0);

1398 (b) The obligor makes a lump-sum payment and/or negotiates a payment plan with the
1399 Agency;

- 1400 (c) The obligor has to travel abroad because of a life-or-death situation involving an
1401 immediate family member, such as the obligor's parent, guardian, step parent, child,
1402 stepchild, grandparent, sibling, step sibling, aunt, uncle or spouse; or
1403 (d) The obligor was denied a passport in error.
1404

1405 **704.16. Family Court Enforcement Action**

1406 704.16-1. 2.8-1 If the Agency does not have the authority to conduct the appropriate enforcement
1407 action, or the obligor is unresponsive to the enforcement actions being imposed by the Agency,
1408 the case shall be referred to the Family Court for enforcement. 2.8-2 The Family Court may order
1409 any of the enforcement actions the Agency is authorized to implement, in addition to the
1410 enforcement actions described in this section. In addition, the Family Court may order the
1411 following to enforce a child support order:

1412 704.16-2. 2.8-2(a) Bonds and Other Guarantees. The Family Court may require an obligor to
1413 provide a surety, bond or guarantee to secure the payment of arrears, if wage income withholding
1414 is not applicable, practical, or feasible to secure payment of arrears.

1415 704.16-3. 2.8-2(b) Claims Against Estates. (1) The Family Court may approve a claim for past
1416 and future support against an obligor's estate. (2) The Family Court may issue a restraining order
1417 against an estate from which an obligor will inherit.

1418 704.16-4. 2.8-2(d) Contempt. The Family Court may hold a An obligor who disobeys a fails to
1419 comply with a lawful child support order in contempt. An obligor found to be in contempt shall be
1420 subject to folloing punishments: for contempt of court.

1421 (a) 2.8-2(e) Community Service. The Family Court may order an obligor to perform
1422 community service. The number of hours of work required may not exceed what would
1423 be reasonable considering the amount of arrears the obligor owes. The obligor shall be
1424 provided a written statement of the terms of the community service order and that the
1425 community service order is monitored. The order shall specify:

- 1426 (1) how many hours of community service the obligor is required to complete;
1427 (2) the time frame in which the hours must be completed;
1428 (3) how the obligor will report his or her hours; and
1429 (4) any other information the Family Court determines is relevant.

1430 (b) Fines. An obligor found in contempt of court may be fined in an amount not to exceed
1431 one thousand dollars (\$1,000.00) per act of contempt and may not exceed five thousand
1432 dollars (\$5,000.00) in total. In instances of continuing contempt, each day shall constitute
1433 a separate act of contempt.

1434 (c) 2.8-2(e) Incarceration. The Family Court may order an obligor be incarcerated,
1435 contingent on the agreements necessary to enable the Tribe to incarcerate individuals.
1436 Before a jail sentence is imposed, the Family Court may provide other conditions that
1437 require a certain amount of money be paid or action be taken for an obligor to avoid
1438 incarceration.

1439 (d) 2.8-3 Criminal Non-Support. A criminal non-support action may be initiated, in the
1440 appropriate county, against an obligor who has the ability to pay child support and willfully
1441 or intentionally failed to pay and the obligor knew or reasonably should have known he or
1442 she was legally obligated to provide.
1443

1444 **704.17. Full Faith and Credit for Foreign Child Support Orders**

1445 704.17-1. Properly issued child Child support orders, and judgments, or decrees of other Indian
1446 federally recognized tribes, tribal organizations, and states, that relate to child support shall be

1447 recognized and modified in accordance with the requirements under the Full Faith and Credit for
1448 Child Support Orders Act, 28 U.S.C. 1738B.

1449 704.17-2. A foreign order is authenticated by reasonable proof that the document tendered to
1450 the Family Court is a true **certified** copy of the foreign order as it is recorded in the agency or court
1451 of the issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records,
1452 or a court seal, is sufficient evidence of authenticity.

1453 704.17-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
1454 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
1455 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
1456 as **an order of the Family Court order**.

1457 704.17-4. If a foreign order is brought before the Family Court solely for an interpretation of
1458 the terms of the order, and the order has been recognized and given full faith and credit by the
1459 Family Court, the Family Court shall interpret the order by applying the law of the forum that
1460 issued the foreign order.

1461
1462 **704.18. Right of Appeal**

1463 704.18-1. **Appeals of Administrative Enforcement Action.** Any enforcement action implemented
1464 by the Agency may **be appealed to the Family Court** within thirty (30) calendar days after the date
1465 that the action is enforced, ~~be appealed to the Family Court~~. The decision of the Family Court **as**
1466 **to the Agency's administrative enforcement action** shall be final **and non-appealable**.

1467 704.18-2. **Appeals of Family Court Decisions.** ~~If the Family Court conducts a hearing under this~~
1468 ~~law a~~ **A** party may **appeal a Family Court decision, other than the decision of the Family Court in**
1469 **regard to administrative enforcement action as referenced in section 704.18-1, to the Nation's**
1470 **Court of Appeals** within thirty (30) calendar days after the date ~~that the Family Court makes a~~
1471 ~~made the~~ decision, ~~appeal that decision to the Court of Appeals of the Judiciary~~. The ~~appellate~~
1472 ~~body~~ review **of the Court of Appeals** shall be based on the record and the original decision of the
1473 Family Court.

1474
1475 *End.*

1476 Emergency Adopted - BC-06-30-08-C (Expired)
1477 Emergency Extended - BC-12-10-08-H (Expired)
1478 Permanently Adopted- BC-06-24-09-B
1479 Emergency Amended - BC-10-28-09-E
1480 Amended - BC-02-24-10-G
1481 Amended - BC-06-22-11-K
1482 Amended - BC-10-10-12-C
1483 Amended - BC-08-13-14-E
1484 Amended - BC- - - - -

1485 **Rule CS-1**
1486 **DEVIATION FROM CHILD SUPPORT PERCENTAGE STANDARDS**

1487
1488 1.1. Introduction 1.3. Support Orders
1489 1.2. Definitions 1.4. Determining the Child Support Obligation in
1490 Special Circumstances
1491

1492
1493 **1.1. Introduction**

1494 1.1-1. ~~Purpose.~~ ~~This rule is promulgated for the purpose of determining child support when~~
1495 ~~circumstances require a deviation from the percentage standards in Chapter 704.~~

1496 1.1-2. ~~Applicability.~~ ~~This rule applies to any child support order or child support order~~
1497 ~~modification implemented under Chapter 704.~~

1498 ~~1.1-3. *Effect of Rule Change.* A modification of any provision in this rule shall not in and of itself~~
1499 ~~be considered a substantial change in circumstances sufficient to justify a revision of a judgment~~
1500 ~~or order under Chapter 704. A modification of any provision in this rule shall apply to orders~~
1501 ~~established after the effective date of the modification.~~

1502 ~~1.1-4. This rule shall be effective June 24, 2009.~~

1503

1504 **1.2. Definitions**

1505 ~~1.2-1. In this rule:~~

1506 ~~(a) “Adjusted monthly income” means the monthly income at which child support is~~
1507 ~~determined for serial family obligors, which is the obligor’s monthly income less the~~
1508 ~~amount of any existing legal obligation for child support.~~

1509 ~~(b) “Agency” means the Oneida Tribe Child Support Agency.~~

1510 ~~(c) “Basic support costs” means food, shelter, clothing, transportation, personal care, and~~
1511 ~~incidental recreational costs.~~

1512 ~~(d) “Child” means a person under the age of eighteen (18), or any person who is less than~~
1513 ~~nineteen (19) years old if he or she is pursuing a high school diploma or its equivalent from~~
1514 ~~an accredited course of instruction.~~

1515 ~~(e) “Child support” means the total financial obligation a parent has towards his or her~~
1516 ~~child as established through judicial and/or administrative processes.~~

1517 ~~(f) “Child Support Order” means a judgment of the Family Court or a court of competent~~
1518 ~~jurisdiction ordering payment of child support which provides monetary support, health~~
1519 ~~care, arrearages, or reimbursement, and which may include related costs and fees, income~~
1520 ~~withholding, attorneys’ fees and other relief.~~

1521 ~~(g) “Current 6 month treasury bill rate” means the yield of a U.S. government security~~
1522 ~~with a term of 6 months.~~

1523 ~~(h) “Dependent household member” means a person for whom a taxpayer is entitled to an~~
1524 ~~exemption for the taxable year under 26 USC 151.~~

1525 ~~(i) “Family Court” shall mean the judicial arm of the Tribe that is designated to handle all~~
1526 ~~matters under this Law.~~

1527 ~~(j) “Federal dependency exemption” means the deduction allowed in computing taxable~~
1528 ~~income pursuant to 26 USC 151 for a child of the taxpayer who has not attained the age of~~
1529 ~~nineteen (19) or who is a student.~~

1530 ~~(k) “Gross income” means any form of payment due to an individual regardless of source,~~
1531 ~~including, but not limited to:~~

1532 ~~(1) Salary and wages, including overtime pay.~~

1533 ~~(2) Interest and investment income.~~

1534 ~~(3) Social Security disability and old age insurance benefits under 42 USC 401 to~~
1535 ~~433.~~

1536 ~~(4) Net proceeds resulting from worker’s compensation or other personal injury~~
1537 ~~awards intended to replace income.~~

1538 ~~(5) Unemployment insurance.~~

1539 ~~(6) Income continuation benefits.~~

1540 ~~(7) Voluntary deferred compensation and voluntary employee contributions to the~~
1541 ~~following: employee benefit plan, profit sharing, pension or retirement account.~~

1542 ~~(8) Military allowances and veterans benefits.~~

1543 ~~(9) Undistributed income of a corporation or any partnership in which the parent~~
1544 ~~has an ownership interest sufficient to individually exercise control or to access the~~
1545 ~~earnings of the business, unless the income included is an asset.~~

- 1546 ~~(10) Per capita distribution payments.~~
1547 ~~(11) Lease or rental income.~~
1548 ~~(12) Prizes over \$1,000.00.~~
1549 ~~(13) All other income, whether taxable or not, except that gross income does not~~
1550 ~~include any of the following:~~
1551 ~~(A) Child support.~~
1552 ~~(B) Foster care payments.~~
1553 ~~(C) Kinship care payments.~~
1554 ~~(D) Public assistance benefits, except that child care subsidy payments shall~~
1555 ~~be considered income to a child care provider.~~
1556 ~~(E) Food stamps.~~
1557 ~~(F) Public assistance or financial hardship payments paid by a county or a~~
1558 ~~tribe.~~
1559 ~~(G) Supplemental Security Income under 42 USC 1381 to 1383(f) and state~~
1560 ~~supplemental payments.~~
1561 ~~(H) Payments made for social services.~~
1562 ~~(l) “Income imputed based on earning capacity” means the amount of income that exceeds~~
1563 ~~the parent’s actual income and represents the parent’s ability to earn, based on the parent’s~~
1564 ~~education, training and recent work experience, earnings during previous periods, current~~
1565 ~~physical and mental health, history of child care responsibilities as the parent with primary~~
1566 ~~physical placement, and the availability of work in or near the parent’s community.~~
1567 ~~(m) “Income imputed from assets” means the amount of income ascribed to assets that are~~
1568 ~~unproductive and to which income has been diverted to avoid paying child support or from~~
1569 ~~which income is necessary to maintain the child or children at the standard of living they~~
1570 ~~would have if they were living with both parents, and that exceeds the actual income from~~
1571 ~~the assets.~~
1572 ~~(n) “Income modified for business expenses” means the amount of income after adding~~
1573 ~~wages paid to dependent household members, adding undistributed income that the Family~~
1574 ~~Court determines is not reasonably necessary for the growth of the business, and~~
1575 ~~subtracting business expenses that the Family Court determines are reasonably necessary~~
1576 ~~for the production of that income or operation of the business and that may differ from the~~
1577 ~~determination of allowable business expenses for tax purposes.~~
1578 ~~(o) “Intact family” means a family in which the child or children and the obligor reside in~~
1579 ~~the same household and the obligor shares his or her income directly with the child or~~
1580 ~~children and has a legal obligation to support the child or children.~~
1581 ~~(p) “Low income obligor” means an obligor for whom the Family Court uses the monthly~~
1582 ~~support amount provided in the schedule in Appendix A based on the Family Court’s~~
1583 ~~determination that the obligor’s total economic circumstances limit his or her ability to pay~~
1584 ~~support at the level provided under 704.7 2(a) and the obligor’s income is at a level set~~
1585 ~~forth in the schedule in Appendix A.~~
1586 ~~(q) “Marital child” means a child born during the marriage of his or her parents. In~~
1587 ~~addition, if the father and mother of a non-marital child enter into a lawful marriage or a~~
1588 ~~marriage which appears and they believe is lawful, except where the parental rights of the~~
1589 ~~mother were terminated before either of these circumstances, the child becomes a marital~~
1590 ~~child and shall enjoy all of the rights and privileges of a marital child as if he or she had~~
1591 ~~been born during the marriage of the parents. The children of all marriages declared void~~
1592 ~~under the law are nevertheless marital children.~~

- 1593 ~~(r) “Monthly income” means the obligor’s income available for child support and is the~~
1594 ~~obligor’s annual gross income or, if applicable, the obligor’s annual income modified for~~
1595 ~~business expenses; plus the obligor’s annual income imputed based on earning capacity;~~
1596 ~~plus the obligor’s annual income imputed from assets; divided by twelve (12).~~
1597 ~~(s) “Parent” means the natural or adoptive parent of the child.~~
1598 ~~(t) “Obligee” means the person or entity to whom child support is owed.~~
1599 ~~(u) “Obligor” means the person who is obliged to pay child support to the obligee.~~
1600 ~~(v) “Serial family obligor” means an obligor with an existing legal obligation for child~~
1601 ~~support who incurs an additional legal obligation for child support in a subsequent family~~
1602 ~~as a result of a child support order.~~
1603 ~~(w) “Shared placement obligor” means a parent who has an ordered period of placement~~
1604 ~~of at least twenty five percent (25%), is ordered by the Family Court to assume the child’s~~
1605 ~~basic support costs in proportion to the time that the parent has placement of the child and~~
1606 ~~is determined to owe a greater support amount than the other parent.~~
1607 ~~(x) “Split placement obligor” means a obligor who has two (2) or more children and who~~
1608 ~~has physical placement of one (1) or more but not all of the children.~~
1609 ~~(y) “Variable costs” means the reasonable costs above basic support costs incurred by or~~
1610 ~~on behalf of a child, including but not limited to, the cost of child care, tuition, a child’s~~
1611 ~~special needs, and other activities that involve substantial cost.~~

1.3. Support Orders

1614 ~~1.3.1. *Determining Income Modified for Business Expenses.* In determining a parent’s monthly~~
1615 ~~income, the Family Court may adjust a parent’s gross income as follows:~~

- 1616 ~~(a) Adding wages paid to dependent household members.~~
1617 ~~(b) Adding undistributed income that the Family Court determines is not reasonably~~
1618 ~~necessary for the growth of the business. The parent shall have the burden of proof to show~~
1619 ~~that any undistributed income is reasonably necessary for the growth of the business.~~
1620 ~~(c) Reducing gross income by the business expenses that the Family Court determines are~~
1621 ~~reasonably necessary for the production of that income or operation of the business and~~
1622 ~~that may differ from the determination of allowable business expenses for tax purposes.~~

1623 ~~1.3.2. *Determining Income Imputed Based on Earning Capacity.* When a parent’s income is less~~
1624 ~~than the parent’s earning capacity or is unknown, the Family Court may impute income to the~~
1625 ~~parent at an amount that represents the parent’s ability to earn, based on the parent’s education,~~
1626 ~~training and recent work experience, earnings during previous periods, current physical and mental~~
1627 ~~health, history of child care responsibilities as the parent with primary physical placement and the~~
1628 ~~availability of work in or near the parent’s community. If evidence is presented that due diligence~~
1629 ~~has been exercised to ascertain information on the parent’s actual income or ability to earn and~~
1630 ~~that information is unavailable, the Family Court may impute to the parent the income that a person~~
1631 ~~would earn by working thirty five (35) hours per week for the federal minimum hourly wage under~~
1632 ~~29 USC 206 (a)(1). If a parent has gross income or income modified for business expenses below~~
1633 ~~his or her earning capacity, the income imputed based on earning capacity shall be the difference~~
1634 ~~between the parent’s earning capacity and the parent’s gross income or income modified for~~
1635 ~~business expenses.~~

1636 ~~1.3.3. *Determining Income Imputed From Assets.*~~

- 1637 ~~(a) The Family Court may impute a reasonable earning potential to a parent’s assets if the~~
1638 ~~Family Court finds both of the following:~~
1639 ~~(1) The parent has ownership and control over any real or personal property,~~
1640 ~~including but not limited to, life insurance, cash and deposit accounts, stocks and~~

1641 ~~bonds, business interests, net proceeds resulting from worker's compensation or~~
1642 ~~other personal injury awards not intended to replace income, and cash and corporate~~
1643 ~~income in a corporation in which the parent has an ownership interest sufficient to~~
1644 ~~individually exercise control and the cash or corporate income is not included as~~
1645 ~~gross income.~~

1646 ~~(2) The parent's assets are underproductive and at least one (1) of the following~~
1647 ~~applies:~~

1648 ~~(a) The parent has diverted income into assets to avoid paying child~~
1649 ~~support.~~

1650 ~~(b) Income from the parent's assets is necessary to maintain the child or~~
1651 ~~children at the standard of living they would have had if they were living~~
1652 ~~with both parents.~~

1653 ~~(b) The Family Court shall impute income to assets by multiplying the total net value of~~
1654 ~~the assets by the current 6 month treasury bill rate or any other rate that the Family Court~~
1655 ~~determines is reasonable and subtracting the actual income from the assets that were~~
1656 ~~included as gross income.~~

1657 ~~1.3-4. Adjustment for Child's Social Security. The Family Court may include benefits received~~
1658 ~~by a child under 42 USC 402(d) based on a parent's entitlement to federal disability or old-age~~
1659 ~~insurance benefits under 42 USC 401 to 433 in the parent's gross income and adjust a parent's~~
1660 ~~child support obligation by subtracting the amount of the child's social security benefit. In no case~~
1661 ~~may this adjustment require the obligee to reimburse the obligor for any portion of the child's~~
1662 ~~benefit.~~

1663 ~~1.3-5. Expression of Ordered Support. The support amount shall be expressed as a fixed sum~~
1664 ~~unless the parties have stipulated to expressing the amount as a percentage of the obligor's income~~
1665 ~~and the stipulation requirements of Chapter 704 are satisfied.~~

1666 ~~1.3-6. Trust. The Family Court may protect and promote the best interests of the minor children~~
1667 ~~by setting aside a portion of the child support that either party is ordered to pay in a separate fund~~
1668 ~~or trust for the support, education, and welfare of such children.~~

1669 ~~1.3-7. Dependency Exemption. The Family Court may order the obligee to waive the federal~~
1670 ~~dependency exemption provided that the obligee's execution of the exemption waiver is made~~
1671 ~~contingent on the receipt of child support payments.~~

1672

1673 **1.4. Determining the Child Support Obligation in Special Circumstances**

1674 **1.4-1. Determining the Child Support Obligation of a Serial Family Obligor.**

1675 ~~(a) Applicability. This subsection applies only if the additional child support obligation~~
1676 ~~incurred by an obligor is the result of a child support order and the support obligation being~~
1677 ~~calculated is for children from a subsequent family or subsequent paternity judgment or~~
1678 ~~acknowledgment. An obligor may not use the provisions of this section as a basis for~~
1679 ~~seeking modification of an existing order based on a subsequently incurred legal obligation~~
1680 ~~for child support.~~

1681 ~~(b) Determination. For a serial family obligor, the child support obligation incurred for a~~
1682 ~~marital or nonmarital child in a subsequent family as a result of a child support order may~~
1683 ~~be determined as follows:~~

1684 ~~(1) Determine the obligor's monthly income;~~

1685 ~~(2) Determine the order of the obligor's legal obligations for child support by~~
1686 ~~listing them according to the date each obligation is incurred. For a marital child,~~
1687 ~~the legal obligation for child support is incurred on the child's date of birth. For a~~
1688 ~~nonmarital child, the legal obligation for child support is incurred on the date of the~~

1689 ~~child support order. For a nonmarital child in an intact family, it is incurred on the~~
1690 ~~date of adoption or the date of the filing of an acknowledgement of paternity. For~~
1691 ~~a nonmarital maternal child in an intact family, it is incurred on the child's date of~~
1692 ~~birth;~~

1693 ~~(3) Determine the first child support obligation as follows:~~

1694 ~~(a) If the obligor is subject to an existing support order for that legal~~
1695 ~~obligation, except a shared placement order, the support for that obligation~~
1696 ~~is the monthly amount of that order; or~~

1697 ~~(b) If the obligor is in an intact family or is subject to a shared placement~~
1698 ~~order, the support is determined by multiplying the appropriate percentage~~
1699 ~~for that number of children by the obligor's monthly income;~~

1700 ~~(4) Adjust the monthly income by subtracting the support for the first legal~~
1701 ~~obligation under (3) from the obligor's monthly income under (1);~~

1702 ~~(5) Determine the second child support obligation as follows:~~

1703 ~~(a) If the obligor is subject to an existing support order for that legal~~
1704 ~~obligation, except a shared placement order, the support for that obligation~~
1705 ~~is the monthly amount of that order; or~~

1706 ~~(b) If the obligor is in an intact family or is subject to a shared placement~~
1707 ~~order, the support is determined by multiplying the appropriate percentage~~
1708 ~~for that number of children by the obligor's monthly income;~~

1709 ~~(6) Adjust the monthly income a second time by subtracting the support for the~~
1710 ~~second legal obligation determined under (5) from the first adjusted monthly~~
1711 ~~income determined under (4);~~

1712 ~~(7) Repeat the procedure under (5) and (6) for each additional legal obligation for~~
1713 ~~child support the serial family obligor has incurred;~~

1714 ~~(8) Multiply the appropriate percentage for the number of children subject to the~~
1715 ~~new order by the final adjusted monthly income determined in either (6) or (7) to~~
1716 ~~determine the new child support obligation.~~

1717 ~~Note: The following example shows how the child support obligation is determined for a serial-~~
1718 ~~family obligor whose additional child support obligation has been incurred for a subsequent~~
1719 ~~family.~~

1720 ~~Assumptions:~~

- 1721 ~~• Parent A's current monthly income is \$3000.~~
- 1722 ~~• Parent A and Parent B were married, had a child in 1990 and divorced in 1991. Parent~~
1723 ~~A is subject to an existing support order of \$450 per month.~~
- 1724 ~~• Parent A remarries and has two children, one born in 1996 and the other in 1997, and~~
1725 ~~remains an intact family.~~
- 1726 ~~• Parent A was adjudicated the father in 1998 for a child born in 1995. Child support~~
1727 ~~needs to be established for this child.~~

1728

1729 ~~Order of parent A's legal obligation for child support:~~

- 1730 ~~• First legal obligation: one child (1990) (divorcee)~~
- 1731 ~~• Second legal obligation: 2 children (1996 and 1997) (intact family)~~
- 1732 ~~• Third legal obligation: one child (1998) (paternity)~~

1733

1734 ~~Calculation:~~

- 1735 ~~• Parent A's current monthly income \$3000.~~

- 1736 ● ~~The first legal obligation is subject to an existing monthly support order (divorcee) \$450.~~
- 1737 ● ~~Adjust the monthly income \$3000—450~~
- 1738 ● ~~First adjusted monthly income \$2550~~
- 1739 ● ~~Determine support for the second legal obligation (intact family) $\$2550 \times .25$ \$637.50~~
- 1740 ● ~~Adjust the first adjusted monthly income \$2550—637.50~~
- 1741 ● ~~Second adjusted monthly income \$1912.50~~
- 1742 ● ~~Determine support for the third legal obligation (paternity) $\$1912.50 \times .17$ \$ 325.12~~
- 1743

1744 1.4.2. ~~Determining the Child Support Obligations of Shared Placement Parents.~~

1745 (a) ~~The shared placement formula may be applied when both of the following conditions~~
1746 ~~are met:~~

1747 (1) ~~Both parents have periods of placement of at least twenty-five percent (25%)~~
1748 ~~or ninety-two (92) days a year. The period of placement for each parent shall be~~
1749 ~~determined by calculating the number of overnights or equivalent care ordered to~~
1750 ~~be provided by the parent and dividing that number by 365. The combined periods~~
1751 ~~of placement for both parents shall equal 100%.~~

1752 (2) ~~Each parent is ordered by the Family Court to assume the child's basic support~~
1753 ~~costs in proportion to the time that the parent has placement of the child.~~

1754 (b) ~~The child support obligations for parents who meet the requirements of (a) may be~~
1755 ~~determined as follows:~~

1756 (1) ~~Determine each parent's monthly income. In determining whether to impute~~
1757 ~~income based on earning capacity for an unemployed parent or a parent employed~~
1758 ~~less than full time under 1.3-2, the Family Court shall consider benefits to the child~~
1759 ~~of having a parent remain in the home during periods of placement and the~~
1760 ~~additional variable day care costs that would be incurred if the parent worked more.~~

1761 (2) ~~Multiply each parent's monthly income by the appropriate percentage standard~~
1762 ~~under 704.7.~~

1763 (3) ~~Multiply each amount determined under (2) by 150%.~~

1764 (4) ~~Multiply the amount determined for each parent under (3) by the proportion of~~
1765 ~~the time that the child spends with the other parent to determine each parent's child~~
1766 ~~support obligation.~~

1767 (5) ~~Offset resulting amounts under (4) against each other. The parent with a greater~~
1768 ~~child support obligation is the shared placement obligor. The shared placement~~
1769 ~~obligor shall pay the lesser of the amount determined under this section or the~~
1770 ~~amount determined using the appropriate percentage standard under 704.7. If the~~
1771 ~~shared placement obligor is also a low-income obligor, the child support obligation~~
1772 ~~may be the lesser of the amount determined under this section or under 1.4-4.~~

1773 (6) ~~In addition to the child support obligation determined under (5), the Family~~
1774 ~~Court shall assign responsibility for payment of the child's variable costs in~~
1775 ~~proportion to each parent's share of physical placement, with due consideration to~~
1776 ~~a disparity in the parents' incomes. The Family Court shall direct the manner of~~
1777 ~~payment of a variable cost order to be either between the parents or from a parent~~
1778 ~~to a third party service provider. The Family Court shall not direct payment of~~
1779 ~~variable costs to be made to the Agency or the Agency's designee, except as~~
1780 ~~incorporated in the fixed sum or percentage expressed child support order.~~

1781 ~~Note: The following example shows how to calculate the child support obligations of shared-~~
1782 ~~placement parents.~~

- 1783 ● ~~Number of children: Two~~
- 1784 ● ~~Parent A: \$2,000 monthly income~~
- 1785 ● ~~Ordered placement of the child for 219 days a year or 60%~~
- 1786 ● ~~Parent B: \$3,000 monthly income~~
- 1787 ~~Ordered placement of the child for 146 days a year or 40%~~
- 1788

	Parent A	Parent B
1. Monthly income	\$2,000	\$3,000
2. Monthly income X percentage standard for two children	$\$2,000 \times 25\% = \500	$\$3,000 \times 25\% = \750
3. Amount in 2. X 150%.	$\$500 \times 150\% = \750	$\$750 \times 150\% = \1125
4. Amount in 3. X the proportion of time that the child spends with the other parent	$\$750 \times 40\% = \300	$\$1125 \times 60\% = \675
5. Offset	$\$675 - \$300 = \$375$	
6. Family Court also assigns responsibility for payment of the child's variable costs:	Manner of payment is between the parents or from a parent to a third party service provider, except as incorporated in the fixed sum or percentage expressed child support order.	

1789
 1790 ~~1.4.3. Determining the Child Support Obligations of Split-Placement Parents. For parents who~~
 1791 ~~have two (2) or more children and each parent has placement of one (1) or more but not all of the~~
 1792 ~~children, the child support obligations may be determined as follows:~~

- 1793 ~~(a) Determine each parent's monthly income.~~
- 1794 ~~(b) Multiply each parent's monthly income by the appropriate percentage for the number of~~
 1795 ~~children placed with the other parent to determine each parent's child support obligation.~~
- 1796 ~~(c) Offset resulting amounts under (b) against each other. The parent with a greater child support~~
 1797 ~~obligation is the split placement obligor.~~

1798 ~~Note: The following example shows how to calculate the amount of child support for split-~~
 1799 ~~placement parents:~~

1800 Assumptions:

- 1801 ● ~~Parent A and B have 3 children.~~
- 1802 ● ~~Parent A has placement of one child and Parent B has placement of 2 children.~~
- 1803 ● ~~Parent A's monthly income is \$3,000.~~
- 1804 ● ~~Parent B's monthly income is \$1,500.~~

1805 Calculation:

- 1806 ● ~~Parent A's child support obligation is $\$3,000 \times 25\% = 750$~~
- 1807 ● ~~Parent B's child support obligation is $\$1,500 \times 17\% = 255$~~
- 1808 ● ~~Parent A owes Parent B $750 - 255 = \$495$~~

1809 ~~1.4.4. Determining the Child Support Obligation of a Low-Income Obligor.~~

1810 ~~(a) The Family Court may use the monthly support amount provided in the schedule in Appendix~~
 1811 ~~A as the support amount for an obligor with a monthly income at a level set forth in the schedule~~
 1812 ~~if the obligor's total economic circumstances limit his or her ability to pay support at the level~~
 1813 ~~determined under 704.7. If an obligor's monthly income is below the lowest income level in~~
 1814 ~~Appendix A, the Family Court may set an order at an amount appropriate for the obligor's total~~

1815 ~~economic circumstances. This amount may be lower than the lowest support amount in Appendix~~
1816 ~~A.~~

1817 ~~(b) The Agency shall revise the schedule in Appendix A at least once every four (4) years. The~~
1818 ~~revision shall be based on changes in the federal poverty guidelines since the schedule was last~~
1819 ~~revised.~~

1820 ~~**Note:** The schedule in Appendix A provides reduced percentage rates that may be used to~~
1821 ~~determine the child support obligation for obligors with an income below approximately 125% of~~
1822 ~~the federal poverty guidelines. If an obligor's monthly income is below approximately 75% of the~~
1823 ~~federal poverty guidelines, the Family Court may order an amount appropriate for the obligor's~~
1824 ~~total economic circumstances. For monthly income amount for child support between~~
1825 ~~approximately 75% and 125% of the federal poverty guidelines, the percentage rates in the~~
1826 ~~schedule gradually increase as income increases. The percentage rates used in 704.7 apply to~~
1827 ~~obligors with income greater than or equal to approximately 125% of the federal poverty~~
1828 ~~guidelines.~~

1829
1830 ~~End.~~

1831

Rule CS-2
ENFORCEMENT TOOLS

2.1. Purpose and Effective Date	2.6. Seizure of Property
2.2. Definition	2.7. Other Enforcement Tools
2.3. Compliance Plan	2.8. Family Court Enforcement Action
2.4. Notice of Enforcement Actions	2.9. Alternative Payment Plans
2.5. Liens	

2.1. Purpose and Effective Date

2.1-1. This rule is promulgated for the purpose of establishing the enforcement tools that may be used when an obligor is no longer paying the amount required by a child support order.

2.1-2. This rule shall be effective June 24, 2009.

2.2. Definitions

2.2-1. In this rule:

(a) “Administrative enforcement actions” means actions authorized by federal regulations which are taken to enforce a child support order without obtaining an order from the Family Court.

(b) “Agency” means the Oneida Tribe Child Support Agency.

(c) “Alternative payment plan” or “plan” means a negotiated agreement between the Agency and an obligor, or an order set by the Family Court, to establish terms for the payment of arrears.

(d) “Equity” means the fair market value of property minus the liens on that property with priority over the child support lien.

(e) “Lien amount” means the difference between the monthly amount of support due and the arrears in a case.

(f) “Lien docket” means the registry kept by the State of Wisconsin containing the names of people who owe past due child support.

(g) “Monthly amount due” means the sum of court ordered provisions for periodic payments due in one (1) month, including any arrears payment.

(h) “Obligee” means the person or entity to whom child support is owed.

(i) “Obligor” means the person who is obliged to pay child support to the obligee.

(j) “Ownership interest” means any personal financial interest.

(k) “Qualified child” means an individual who is no longer a minor but who, while still a minor, was determined to be disabled under Title II or Title XVI of the Social Security Act.

(l) “Threshold” means an amount, expressed as either a percentage of the monthly amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed before an administrative enforcement action may be used to enforce a child support order.

2.3. Compliance Plan

2.3-1. The Agency shall attempt to meet with a party who is found to be subject to enforcement action as soon as possible by sending a Letter of Non-Compliance within five (5) business days of being informed of a party’s failure to either pay support as ordered or to meet a required obligation or action.

(a) The Letter shall set out the conditions the party has failed to comply with, outline the enforcement actions that may be taken and request the party meet with the Agency.

(b) If the party does not respond to the Letter within five (5) business days after receipt of the letter, the Agency shall send a second Letter.

- 1881 ~~(c) If the party fails to respond to the second Letter within five (5) business days after~~
1882 ~~receipt of the letter, the Agency shall proceed with appropriate enforcement action.~~
1883 ~~(d) If the party responds to the Letter, the Agency shall interview the party to determine~~
1884 ~~the reasons and barriers for the non-compliance and create a Compliance Plan. The~~
1885 ~~Compliance Plan may include an increase in payment and/or any activity that is necessary~~
1886 ~~to ensure payment, including programs that focus on:~~
1887 ~~(1) Employment and training;~~
1888 ~~(2) Social service and mental health;~~
1889 ~~(3) Physical and learning disabilities;~~
1890 ~~(4) Tribal traditions and customs;~~
1891 ~~(5) Family counseling.~~
1892 ~~(e) If the party successfully completes the Compliance Plan, no further enforcement action~~
1893 ~~is necessary. However, if the party fails to complete the Compliance Plan, the Agency~~
1894 ~~shall proceed with appropriate enforcement action.~~
1895

1896 **2.4. Notice of Enforcement Actions**

1897 ~~2.4.1. The enforcement actions in this rule may be applied when an obligor is no longer in~~
1898 ~~compliance with a child support order and is not making efforts to comply with the order. An~~
1899 ~~obligor shall be provided with at least thirty (30) days notice before an enforcement action is~~
1900 ~~utilized, unless another time line is specified within this rule. An enforcement action shall be stayed~~
1901 ~~and/or suspended after notice is given to the obligor if the obligor pays the debt in full or enters~~
1902 ~~into, and maintains, an alternative payment plan.~~

1903 ~~2.4.2. Notice of Delinquency. In the event that an obligor owes a debt equal to or exceeding the~~
1904 ~~monthly amount due, the Agency shall send a notice of delinquency to the obligor.~~

- 1905 ~~(a) The notice shall inform the obligor of the following:~~
1906 ~~(1) The dates that the delinquency accrued;~~
1907 ~~(2) The total amount of the delinquency;~~
1908 ~~(3) Any prior agreement or showing of good cause to not wage withhold may be~~
1909 ~~terminated and the obligor may be subject to wage withholding;~~
1910 ~~(4) The enforcement action that may be taken as a result of the delinquency;~~
1911 ~~(5) The obligor may request, in writing to the Agency, to negotiate an alternative~~
1912 ~~payment plan with the Agency within ten (10) business days after the service of~~
1913 ~~notice in order to stay any enforcement action;~~
1914 ~~(6) The obligor has ten (10) business days after the service of the notice of~~
1915 ~~delinquency to file an objection with the Agency presenting good cause why an~~
1916 ~~arrears payment or other enforcement action should not be implemented. The only~~
1917 ~~allowable objections are:~~

- 1918 ~~(A) There is an error in the amount of current or overdue support; or~~
1919 ~~(B) The identity of the obligor is mistaken.~~

1920 ~~(b) If the obligor does not file an objection or request to negotiate an alternative payment~~
1921 ~~plan:~~

- 1922 ~~(1) the enforcement action shall be taken; and/or~~
1923 ~~(2) a wage withholding order, or revised order if one is already in place, shall be~~
1924 ~~imposed on the payor. No more than an additional twenty percent (20%) of the~~
1925 ~~current support payment order can be withheld to satisfy the delinquency provided~~
1926 ~~that the total amount withheld does not exceed forty percent (40%) of the obligor's~~
1927 ~~monthly income.~~

1928 ~~(c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any~~
1929 ~~enforcement action is taken.~~

1930 ~~2.4 3. Use of Mail. The Agency shall send notices related to the enforcement of a child support~~
1931 ~~order by mail to the last known mailing address provided by the obligor. If the notice is returned,~~
1932 ~~the Agency shall send notice to the obligor using the current employer mailing address provided~~
1933 ~~by the obligor. If the notice to the obligor mailed to the obligor's employer is returned, the Agency~~
1934 ~~shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's current~~
1935 ~~mailing address. If those resources are used for a period of sixty (60) days and a verified mailing~~
1936 ~~address has not been identified, the Agency may proceed with the administrative enforcement~~
1937 ~~action.~~

1938 ~~2.4 4. Notice to the Obligee of Enforcement Proceedings. The Agency shall provide written notice~~
1939 ~~to the obligee when an enforcement action has been initiated against the obligor or when the~~
1940 ~~obligor requests a hearing and the hearing has been scheduled. The notice to the obligee shall be~~
1941 ~~sent at the same time notice is sent to the obligor.~~

1942 ~~2.4 5. Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest in~~
1943 ~~Property. The Agency shall provide notice related to the seizure of property to any individual,~~
1944 ~~other than the obligor, with a recorded ownership interest in property subject to seizure. The~~
1945 ~~individual may request a hearing for a determination of the proportion of the value of the property~~
1946 ~~that is attributable to his or her net contribution to the property. The hearing shall be requested~~
1947 ~~within thirty (30) days after the notice was received by the individual.~~

1948

1949 **2.5. Liens**

1950 ~~2.5 1. The Agency shall have an obligor placed on the lien docket if the obligor owes a debt in~~
1951 ~~one or more of the obligor's cases equal to or exceeding the monthly amount due or \$500.00,~~
1952 ~~whichever is greater.~~

1953 ~~2.5 2. Lien Amount. The lien amount on the lien docket shall equal the sum of lien amounts from~~
1954 ~~the cases in which the lien amount meets or exceeds the lien threshold.~~

1955 ~~2.5 3. Filing Date. The filing date on the lien docket is the date that a lien is first docketed and~~
1956 ~~delivered to the register of deeds. The filing date is the effective date of the lien. The effective~~
1957 ~~date does not change if the lien amount is adjusted up or down within five (5) years after the date~~
1958 ~~that the lien is first docketed.~~

1959 ~~2.5 4. Lien Priority. The child support lien shall have priority over all other liens on property~~
1960 ~~except tax and special assessment liens, purchase money mortgages, construction liens,~~
1961 ~~environmental liens, liens that are filed or recorded before the child support lien becomes effective~~
1962 ~~and any other lien given priority under the law.~~

1963 ~~(a) Property subject to a lien includes personal property in which the obligor has a recorded~~
1964 ~~ownership interest.~~

1965 ~~(b) A child support lien is not effective against a good faith purchaser of titled personal~~
1966 ~~property unless the lien is recorded on the title.~~

1967 ~~2.5 5. Credit Bureau Reporting. The Agency may report the total amount of an obligor's liens to~~
1968 ~~the credit bureau, so long as the lien is fully enforceable and the case is not barred from credit~~
1969 ~~bureau reporting.~~

1970 ~~2.5 6. Denial of State issued Grants and Loans. Wisconsin state agencies may deny grants and~~
1971 ~~loans to an obligor who is placed on the lien docket. These grants and loans include student loans~~
1972 ~~and higher education grants, as well as mortgage loans from the Wisconsin Housing and Economic~~
1973 ~~Development Authority (WHEDA).~~

1974 ~~2.5 7. The Agency shall, either on its own or in conjunction with the State, be responsible for:~~

1975 ~~(a) updating the lien docket periodically.~~

- 1976 ~~(b) providing a copy of the lien docket to the appropriate register of deeds.~~
1977 ~~(c) responding to inquiries concerning information recorded on the lien docket.~~
1978 ~~(d) ensuring the satisfaction of a lien is recorded on the lien docket.~~
1979 ~~(e) renewing a lien if the lien amount equals or exceeds the lien threshold at the end of the~~
1980 ~~five (5) year effective period.~~

1981 ~~(1) When a lien is renewed, the date on which the lien is renewed shall become the~~
1982 ~~effective date of the lien, and a new five (5) year period shall commence.~~

1983 ~~(f) sending the obligor a notice when a lien has been renewed.~~

1984 ~~(g) developing procedures for releasing a lien and releasing specific property from a lien.~~

1985 ~~2.5 8. Financial Record Review.~~

1986 ~~(a) An obligor may request a financial record review, within ten (10) business days of~~
1987 ~~receiving a notice of a lien, to determine the correctness of the financial records in a case.~~
1988 ~~The request shall be made in writing to the Agency.~~

1989 ~~(b) Upon receiving a request for a financial record review, the Agency shall, at no charge~~
1990 ~~to the obligor, provide the obligor with:~~

1991 ~~(1) all relevant financial records;~~

1992 ~~(2) information explaining how to interpret the records;~~

1993 ~~(3) a form the obligor may use to identify any alleged errors in the records.~~

1994 ~~(c) Within twenty (20) days after receiving the relevant financial records, the obligor may:~~

1995 ~~(1) request a meeting with the Agency to review the financial records and to discuss~~
1996 ~~any alleged errors;~~

1997 ~~(2) provide a statement of alleged error on the documents;~~

1998 ~~(A) The Agency shall review the records to determine whether the alleged~~
1999 ~~error is correct and provide a written determination within sixty (60) days~~
2000 ~~after the obligor's request for a financial record review is received as to~~
2001 ~~whether the lien against the obligor is in the correct amount.~~

2002 ~~(d) The Agency may proceed with the lien if:~~

2003 ~~(1) the obligor does not request a meeting with the Agency or provide a statement~~
2004 ~~of alleged error within twenty (20) days after receiving the financial records; or~~

2005 ~~(2) no errors are found in the financial records of the case; or~~

2006 ~~(3) the arrears exceed the required threshold amount after any errors in the financial~~
2007 ~~records are corrected.~~

2008

2009 ~~**2.6. Seizure of Property**~~

2010 ~~2.6 1. When seizing property, the Agency shall presume that an obligor's equity or ownership in~~
2011 ~~the property, whether an account or personal property, is an equal pro-rata share of the equity or~~
2012 ~~ownership based on the number of individuals with a recorded ownership interest in the property.~~

2013 ~~2.6 2. Account Seizure. The Agency may initiate an account seizure if there is a lien against an~~
2014 ~~obligor and the lien amount in the obligor's case equals or exceeds 300% of the monthly amount~~
2015 ~~due in the order or \$1,000, whichever is greater.~~

2016 ~~(a) The Agency may not issue a notice of seizure unless the sum of the funds in all of the~~
2017 ~~obligor's financial accounts, minus expected seizure fees and any early withdrawal penalty,~~
2018 ~~exceeds \$500. The first \$500 of each account shall not be frozen and/or seized.~~

2019 ~~(b) The notice shall instruct the financial institution of the following:~~

2020 ~~(1) The maximum amount frozen in an account may not exceed the amount~~
2021 ~~specified by the Agency in the notice.~~

2022 ~~(2) The maximum amount frozen in an account may not exceed the obligor's~~
2023 ~~ownership interest.~~

2024 ~~(3) A financial institution is not liable for encumbering or surrendering any assets~~
2025 ~~held by the financial institution in response to instructions from the Agency for the~~
2026 ~~purpose of enforcing a child support order.~~

2027 ~~2.6 3. Seizure of Personal Property Other than Financial Accounts. In addition to the~~
2028 ~~requirements under (a) and (b) below, the Agency may initiate the seizure of personal property if~~
2029 ~~there is a lien against an obligor and the lien amount equals or exceeds 600% of the monthly~~
2030 ~~amount due in the order. Upon issuance of a written order of execution, non-exempt personal~~
2031 ~~property may be seized and sold in a reasonable manner after notice to the owner in payment of a~~
2032 ~~child support obligation that has been adjudicated delinquent by the Family Court. Ceremonial or~~
2033 ~~religious property and real property are exempt from such writs of execution.~~

2034 ~~(a) Personal Property. The Agency may seize personal property if the obligor's equity in~~
2035 ~~the property, minus expected seizure fees, exceeds \$500 per item total.~~

2036 ~~(b) The Tribe's "Disposition of Excess Tribal Property Policy" shall not apply to any~~
2037 ~~property seized under this law.~~

2038

2039 **2.7. Other Enforcement Tools.**

2040 ~~2.7 1. Attachment of Per Capita Payments. The Agency may initiate the attachment and/or seizure~~
2041 ~~of per capita payments of tribal members in accordance with applicable law.~~

2042 ~~2.7 2. License Suspension.~~

2043 ~~(a) The Agency may initiate the suspension or denial of occupational, fishing, recreational,~~
2044 ~~motor vehicle and/or Oneida issued licenses if there is a lien against an obligor that equals~~
2045 ~~or exceeds 300% of the monthly amount due in the child support order, or \$1000,~~
2046 ~~whichever is greater. Suspension of an occupational and/or motor vehicle license shall be~~
2047 ~~pursued only as a last resort and the Agency shall not initiate the suspension of a license(s)~~
2048 ~~if:~~

2049 ~~(1) there is an order in place that prohibits the suspension of the license(s);~~

2050 ~~(2) the obligor has filed for bankruptcy; or~~

2051 ~~(3) action has already been taken to suspend the license.~~

2052 ~~(b) When an Oneida issued license is suspended, that suspension shall be binding on and~~
2053 ~~given effect by the license issuing agencies. Orders affecting licenses issued by other~~
2054 ~~governmental agencies shall be sent to such agencies for enforcement.~~

2055 ~~2.7 3. Intercept of Lump-Sum Pension Payments, Judgments and Settlements. The Agency may~~
2056 ~~initiate the intercept of lump sum pension payments, judgments and/or settlements when an~~
2057 ~~obligor has been placed on the lien docket.~~

2058 ~~(a) When initiating the intercept of lump sum pension payments, judgments and/or~~
2059 ~~settlements, the Agency shall specify in the notice that the amount withheld from the lump-~~
2060 ~~sum pension payment, judgment or settlement may not exceed the obligor's ownership~~
2061 ~~interest in the payment.~~

2062 ~~2.7 4. Tax and Lottery Intercepts. The Agency may coordinate with a federal or state agency in~~
2063 ~~order to enforce a child support order through a tax and/or lottery intercept. Once an obligor has~~
2064 ~~been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice is~~
2065 ~~valid until all arrears are paid in full.~~

2066 ~~(a) Federal Tax Intercept. The Agency may certify a federal tax intercept when the~~
2067 ~~requirements pertaining to federal tax intercept contained in an agreement between the~~
2068 ~~State and the Tribe have been met.~~

2069 ~~(b) Wisconsin State Tax Intercept. The Agency may certify a Wisconsin state tax intercept~~
2070 ~~when the following requirements are met:~~

2071 ~~(1) The arrears shall be at least one hundred fifty dollars (\$150).~~

- 2072 ~~(2) The arrears shall be at least thirty (30) days old.~~
2073 ~~(3) The arrears shall be for a minor child or a child who has reached the age of~~
2074 ~~eighteen (18) within the last twenty (20) years.~~
2075 ~~(c) Wisconsin Lottery Intercept. When a case is certified for Wisconsin state tax intercept,~~
2076 ~~it shall also be automatically certified for Wisconsin lottery intercept for lottery winnings~~
2077 ~~of one thousand dollars (\$1,000) or more.~~
2078 ~~2.7.5. Passport Denial. If a federal tax intercept is in place and the obligor owes five thousand~~
2079 ~~dollars (\$5,000) or more in arrears, an obligor may be denied a passport. The arrears must meet~~
2080 ~~the criteria for federal tax intercept in order for passport denial to be used as an enforcement tool.~~
2081 ~~An obligor shall be removed from the passport denial list if:~~
2082 ~~(a) The federal tax intercept certification amount is zero (0);~~
2083 ~~(b) The obligor makes a lump sum payment and/or negotiates a payment plan with the~~
2084 ~~Agency;~~
2085 ~~(c) The obligor has to travel abroad because of a life or death situation involving an~~
2086 ~~immediate family member, such as the obligor's parent, guardian, step parent, child, step~~
2087 ~~child, grandparent, sibling, step-sibling, aunt, uncle or spouse; or~~
2088 ~~(d) The obligor was denied a passport in error.~~
2089

2.8. Family Court Enforcement Action

- 2091 ~~2.8.1. If the Agency does not have the authority to conduct the appropriate enforcement action,~~
2092 ~~or the obligor is unresponsive to the enforcement actions being imposed by the Agency, the case~~
2093 ~~shall be referred to the Family Court for enforcement.~~
2094 ~~2.8.2. The Family Court may order any of the enforcement actions the Agency is authorized to~~
2095 ~~implement. In addition, the Family Court may order the following to enforce a child support order:~~
2096 ~~(a) Bonds and Other Guarantees. The Family Court may require an obligor to provide a~~
2097 ~~surety, bond or guarantee to secure the payment of arrears, if wage withholding is not~~
2098 ~~applicable, practical or feasible to secure payment of arrears.~~
2099 ~~(b) Claims Against Estates.~~
2100 ~~(1) The Family Court may approve a claim for past and future support against an~~
2101 ~~obligor's estate.~~
2102 ~~(2) The Family Court may issue a restraining order against an estate from which~~
2103 ~~an obligor will inherit.~~
2104 ~~(c) Community Service. The Family Court may order an obligor to perform community~~
2105 ~~service. The number of hours of work required may not exceed what would be reasonable~~
2106 ~~considering the amount of arrears the obligor owes. The obligor shall be provided a written~~
2107 ~~statement of the terms of the community service order and that the community service order~~
2108 ~~is monitored. The order shall specify:~~
2109 ~~(1) how many hours of community service the obligor is required to complete;~~
2110 ~~(2) the time frame in which the hours must be completed;~~
2111 ~~(3) how the obligor will report his or her hours; and~~
2112 ~~(4) any other information the Family Court determines is relevant.~~
2113 ~~(d) Contempt. An obligor who disobeys a lawful child support order shall be subject to~~
2114 ~~punishment for contempt of court. An obligor found in contempt of court may be fined in~~
2115 ~~an amount not to exceed one thousand dollars (\$1,000.00) per act of contempt and may not~~
2116 ~~exceed five thousand dollars (\$5,000.00) in total. In instances of continuing contempt,~~
2117 ~~each day shall constitute a separate act of contempt.~~
2118 ~~(e) Incarceration. The Family Court may order an obligor be incarcerated, contingent on~~
2119 ~~the agreements necessary to enable the Tribe to incarcerate individuals. Before a jail~~

2120 ~~sentence is imposed, the Family Court may provide other conditions that require a certain~~
2121 ~~amount of money be paid or action be taken for an obligor to avoid incarceration.~~

2122 ~~2.8-3. Criminal Non-Support. A criminal non-support action may be initiated, in the appropriate~~
2123 ~~county, against an obligor who has the ability to pay child support and willfully or intentionally~~
2124 ~~failed to pay and the obligor knew or reasonably should have known he or she was legally obligated~~
2125 ~~to provide.~~

2126 ~~2.9. Alternative Payment Plans~~

2127 ~~2.9-1. Applicability of Alternative Payment Plans. When an obligor is subject to administrative~~
2128 ~~enforcement action, he or she may negotiate an alternative payment plan with the Agency.~~

2129 ~~2.9-2. Negotiation of an Alternative Payment Plan After Receiving Notice of an Enforcement~~
2130 ~~Action.~~

2131 ~~(a) In order to negotiate an alternative payment plan, an obligor shall submit a written~~
2132 ~~request to the Agency. A written request to negotiate an alternative payment plan received~~
2133 ~~by the Agency within ten (10) business days after the date of notice shall stay any~~
2134 ~~administrative enforcement action. If a written request to negotiate an alternative payment~~
2135 ~~plan is received by the Agency more than ten (10) business days after the date of notice,~~
2136 ~~administrative enforcement action may be taken, as long as the requirements of 2.9-3 and~~
2137 ~~2.9-4 are met.~~

2138 ~~(b) An obligor may negotiate a plan with the Agency to have a license issued or renewed~~
2139 ~~after it has been restricted, limited, suspended or refused.~~

2140 ~~(c) The obligor may submit a written request for a hearing on the reasonableness of the~~
2141 ~~plan within ten (10) business days after the terms of the plan are agreed upon.~~

2142 ~~(d) If the Agency and the obligor are unable to reach agreement on the terms of a plan, a~~
2143 ~~hearing may be conducted. The Family Court may order a plan by setting payments in the~~
2144 ~~amounts and at the times it considers reasonable.~~

2145 ~~2.9-3. Staying Administrative Enforcement Actions. Administrative enforcement actions shall be~~
2146 ~~stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a hearing is~~
2147 ~~requested, until the Family Court determination has been made. To stay an administrative~~
2148 ~~enforcement action means the following:~~

2149 ~~(a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of~~
2150 ~~professional, occupational, fishing, recreational, motor vehicle and/or Oneida issued~~
2151 ~~licenses.~~

2152 ~~(b) Any frozen financial accounts shall remain frozen and shall not be seized.~~

2153 ~~(c) Personal property that has been seized shall not be sold.~~

2154 ~~2.9-4. Suspension of Administrative Enforcement Actions.~~

2155 ~~(a) When a plan has been negotiated between the obligor and the Agency, or the Family~~
2156 ~~Court has determined that a plan is reasonable or has ordered a plan, the Agency shall~~
2157 ~~suspend administrative enforcement actions as long as the obligor complies with the plan.~~

2158 ~~(b) If an obligor makes a full arrears payment, the administrative enforcement action shall~~
2159 ~~be suspended.~~

2160 ~~2.9-5. Proceeding with Administrative Enforcement Actions. The Agency may continue with the~~
2161 ~~administrative enforcement action if:~~

2162 ~~(a) the obligor and the Agency are unable to negotiate a plan.~~

2163 ~~(b) the Family Court determines that the plan is not reasonable.~~

2164 ~~(c) the Family Court does not order a plan.~~

2165 ~~2.9-6. Disclosure of Income and Assets. The request to negotiate a plan shall include an agreement~~
2166 ~~by the obligor to provide the Agency with a full disclosure of income and assets available. The~~
2167

2168 ~~obligor shall provide complete income and assets information to the Agency within five (5)~~
2169 ~~business days of the request to negotiate a payment plan.~~

2170 ~~2.9-7. Terms of an Alternative Payment Plan.~~

2171 ~~(a) An alternative payment plan may include a lump sum payment, or periodic payments~~
2172 ~~on the arrears, or both, subject to the following standards:~~

2173 ~~(1) The sum of any periodic payment established under the plan and any other~~
2174 ~~payment of support ordered by the Family Court, when subtracted from the~~
2175 ~~obligor's gross income, may not leave the obligor below 100% of the poverty line~~
2176 ~~established under 42 USC 9902 (2) unless the obligor agrees otherwise.~~

2177 ~~(2) When establishing an alternative payment plan, the Agency shall consider the~~
2178 ~~factors used by the Family Court in determining whether the use of the percentage~~
2179 ~~standard is unfair to the child or any of the parties.~~

2180 ~~(b) Periodic payments under the plan may be made through wage withholding in amounts~~
2181 ~~in addition to the amount ordered in the child support order that is in effect.~~

2182 ~~2.9-8. Default on an Alternative Payment Plan. In the event that the obligor defaults on the plan,~~
2183 ~~the Agency shall notify the obligor in writing that an administrative enforcement action shall be~~
2184 ~~implemented unless the lien is paid in full.~~

2185 ~~2.9-9. Renegotiation of an Alternative Payment Plan. After the entry of an alternative payment~~
2186 ~~plan, the plan may be renegotiated upon the written request of the obligor or Agency if the~~
2187 ~~requesting party can show a substantial change in circumstances. A substantial change in~~
2188 ~~circumstances includes any of the following:~~

2189 ~~(a) A change in the obligor's income or assets, including the sale or purchase of real or~~
2190 ~~personal property.~~

2191 ~~(b) A change in the obligor's earning capacity.~~

2192 ~~(c) Any other factor that the Agency determines is relevant.~~

2193 ~~2.9-10. Obligors with Cases in Multiple Jurisdictions.~~

2194 ~~(a) When multiple child support agencies initiate administrative enforcement actions~~
2195 ~~against the same obligor, and the obligor negotiates an alternative payment plan with one~~
2196 ~~of the agencies, the plan does not preclude any other child support agency from proceeding~~
2197 ~~with its administrative enforcement action.~~

2198 ~~(b) If a child support agency which has a lien against property of an obligor negotiates an~~
2199 ~~alternative payment plan with the obligor, the agency may receive proceeds from the sale~~
2200 ~~of the obligor's personal property under the lien including, but not limited to, proceeds~~
2201 ~~from administrative enforcement actions taken by other child support agencies.~~

2202
2203 ~~End.~~

2204 ~~Emergency Adopted BC 06-30-08-C (Expired)~~

2205 ~~Emergency Extended BC 12-10-08-H (Expired)~~

2206 ~~Permanently Adopted BC 06-24-09-B~~

2207 ~~Emergency Amended BC 10-28-09-E~~

2208 ~~Amended BC 02-24-10-G~~

2209 ~~Amended BC 02-23-11-E~~

2210 ~~Amended BC 06-22-11-K~~

2211 ~~Amended BC 10-10-12-C~~

2212 ~~Amended BC 08-13-14-E~~

2213

Title 7. Children, Elders and Family - Chapter 704
shakoti'nukú·lale? latiksashúha?
They watch over the children
CHILD SUPPORT

704.1. Purpose and Policy	704.10. Modification of a Child Support Order
704.2. Adoption, Amendment, Repeal	704.11. Modification of a Child Support Order for an Incarcerated Parent
704.3. Definitions	704.12. Compliance Plan
704.4. Jurisdiction	704.13. Enforcement of an Order
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704.6. Child Support Hearing Procedures	704.15. Administrative Enforcement Action
704.7. Determining the Child Support Obligation	704.16. Family Court Enforcement Action
704.8. Determining the Child Support Obligation in Special Circumstances	704.17. Full Faith and Credit for Foreign Child Support Orders
704.9. Child Support Order	704.18. Right of Appeal

1
2 **704.1. Purpose and Policy**
3 704.1-1. *Purpose.* The purpose of this law is to:
4 (a) Establish the legal responsibility of parents to provide financially for their children's
5 general well-being;
6 (b) Make support payments more equitable by ensuring consistent treatment of persons in
7 similar circumstances;
8 (c) Make support payments based on the real earning capability of parents; and
9 (d) Improve the efficiency of child support establishment and enforcement.
10 704.1-2. *Policy.* It is the policy of this law to:
11 (a) establish an adequate standard of support for children whose paternity has been
12 established or acknowledged;
13 (b) encourage the use of stipulations to resolve disputes over child support obligations;
14 and
15 (c) limit the use and disclosure of personal information received or maintained by the
16 Nation's Family Court and/or the Oneida Nation Child Support Agency in order to protect
17 the privacy rights of all parties and children who are involved in proceedings or actions
18 under this law.
19
20 **704.2. Adoption, Amendment, Repeal**
21 704.2-1. This law was adopted by the Oneida Business Committee by resolution BC-06-24-09-B
22 and amended by resolutions BC-02-24-10-G, BC-02-23-11-E, BC-06-22-11-K, BC-10-10-12-C,
23 BC-08-13-14-E, and BC-__-__-__-__.
24 704.2-2. This law may be amended or repealed by the Oneida Business Committee or the Oneida
25 General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
26 704.2-3. Should a provision of this law or the application thereof to any person or circumstances
27 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
28 to have legal force without the invalid portions.
29 704.2-4. In the event of a conflict between a provision of this law and a provision of another law,
30 the provisions of this law shall control.
31 704.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.
32

33 **704.3. Definitions**

34 704.3-1. This section shall govern the definitions of words and phrases used within this law. All
35 words not defined herein shall be used in their ordinary and everyday sense.

36 (a) “Administrative enforcement action” means enforcement action taken by the Oneida
37 Nation Child Support Agency to enforce a child support order without obtaining an order
38 from the Family Court.

39 (b) “Agency” means the Oneida Nation Child Support Agency established to administer
40 and supervise the Nation’s child support enforcement program.

41 (c) “Alternative payment plan” means a negotiated agreement between the Agency and an
42 obligor, or an order set by the Family Court, to establish terms and conditions for the
43 payment of arrears.

44 (d) “Basic support costs” means food, shelter, clothing, transportation, personal care, and
45 incidental recreational costs.

46 (e) “Business day” means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding
47 holidays recognized by the Nation.

48 (f) “Child” means a biological or adopted child of the obligor under the age of eighteen
49 (18), or any person who is less than nineteen (19) years old if he or she is pursuing a high
50 school diploma or its equivalent from an accredited course of instruction.

51 (g) “Child support” means the total financial obligation a parent has towards his or her
52 child as established through judicial and/or administrative processes.

53 (h) “Child Support Obligation of Low-Income Payers Schedule” means the Wisconsin
54 Department of Children and Families Child Support Obligation of Low-Income Payers at
55 the Federal Poverty Guidelines, found in DCF 150 Appendix C.

56 (i) “Child support order” means a judgment of the Family Court or a court of competent
57 jurisdiction ordering payment of child support which provides monetary support, health
58 care, arrearages, or reimbursement, and which may include related costs and fees, interest
59 and penalties, income withholding, attorney’s’ fees and other relief.

60 (j) “Current six (6) month treasury bill rate” means the yield of a U.S. government security
61 with a term of six (6) months.

62 (k) “Custodial parent” means the parent who exercises physical custody of the child
63 pursuant to a custody order, on the basis of agreement between the parents or in the absence
64 of one parent. A legal guardian with primary physical custody of the child or children and
65 standing in the position of the parent shall have the same rights to child support as a
66 custodial parent.

67 (l) “Employer” means any individual, business, government, institution, or other entity
68 paying wages to one or more employees.

69 (m) “Equity” means the fair market value of property minus the liens on that property with
70 priority over the child support lien.

71 (n) “Equivalent care” means a period of time during which the parent cares for the child
72 that is not overnight, but is determined by the court to require the parent to assume the
73 basic support costs that are substantially equivalent to what the parent would spend to care
74 for the child overnight. Blocks of time with the child of at least six (6) hours may be
75 considered the equivalent of a half-day if a meal is provided during that time period. Two
76 (2) half-day blocks may be considered the equivalent of an overnight.

77 (o) “Family Court” means the branch of the Nation’s Judiciary that is designated to handle
78 all matters related to the family and/or children.

79 (p) “Gross income” means any form of payment due to an individual regardless of source,
80 including, but not limited to:

- 81 (1) Salary and wages, including overtime pay;
- 82 (2) Interest and investment income;
- 83 (3) Social Security disability and old age insurance benefits under 42 U.S.C. §401
84 to 433;
- 85 (4) Net proceeds resulting from worker’s compensation or other personal injury
86 awards intended to replace income;
- 87 (5) Unemployment insurance;
- 88 (6) Income continuation benefits;
- 89 (7) Voluntary deferred compensation and employee contributions to the following:
90 employee benefit plan, profit-sharing, pension or retirement account;
- 91 (8) Military allowances and veterans disability compensation benefits;
- 92 (9) Undistributed income of a corporation or any partnership in which the parent
93 has an ownership interest sufficient to individually exercise control or to access the
94 earnings of the business, unless the income included is an asset;
- 95 (10) Per capita distribution payments;
- 96 (11) Lease or rental income;
- 97 (12) Prizes over one thousand dollars (\$1,000); and
- 98 (13) All other income, whether taxable or not, except that gross income does not
99 include any of the following:

- 100 (A) Child support;
- 101 (B) Foster care payments;
- 102 (C) Kinship care payments;
- 103 (D) Public assistance benefits, except that child care subsidy payments shall
104 be considered income to a child care provider;
- 105 (E) Food stamps;
- 106 (F) Public assistance or financial hardship payments paid by a county or a
107 Nation;
- 108 (G) Supplemental Security Income under 42 U.S.C. §1381 to 1383(f) and
109 state supplemental payments; or
- 110 (H) Payments made for social services.

111 (q) “Guardian ad litem” means a person appointed by the Family Court to appear at any
112 peacemaking, mediation, or hearing and tasked with representing the best interest of the
113 person appointed for.

114 (r) “Immediate family member” means an individual’s husband, wife, mother, father, step-
115 mother, step-father, son, daughter, step-son, step-daughter, brother, sister, step-brother,
116 step-sister, grandparent, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-
117 law, brother-in-law or sister-in-law and any of the these relations attained through legal
118 adoption.

119 (s) “Income withholding” means the process whereby a court order, Family Court order,
120 or voluntary wage assignment directs an employer, bank, or agent holding monies or
121 property of an obligor, to make payments or deliver property to satisfy a child support
122 obligation.

123 (t) “Intact family” means a family in which the child or children and the obligor reside in
124 the same household and the obligor shares his or her income directly with the child or
125 children and has a legal obligation to support the child or children.

- 126 (u) “Legally incompetent adult” means a person at least eighteen (18) years old who has
127 been declared incompetent by a court of competent jurisdiction because he or she is
128 temporarily or permanently impaired to the extent that the person lacks sufficient
129 understanding to make or communicate responsible personal decisions.
- 130 (v) “Lien amount” means the difference between the monthly amount of support due and
131 the arrears in a case.
- 132 (w) “Lien docket” means the registry kept by the State of Wisconsin containing the names
133 of people who owe past-due child support.
- 134 (x) “Low-income obligor” means an obligor for whom the Family Court uses the monthly
135 support amount provided in the schedule in the Child Support Obligation of Low-Income
136 Payers Schedule based on the Family Court’s determination that the obligor’s total
137 economic circumstances limit his or her ability to pay support at standard percentages and
138 the obligor’s income is at a level set forth in the schedule in the Child Support Obligation
139 of Low-Income Payers Schedule.
- 140 (y) “Marital child” means a child born during the marriage of his or her parents. In
141 addition, if the father and mother of a non-marital child enter into a lawful marriage or a
142 marriage which appears and they believe is lawful, except where the parental rights of the
143 mother were terminated before either of these circumstances, the child becomes a marital
144 child and shall enjoy all of the rights and privileges of a marital child as if he or she had
145 been born during the marriage of the parents. The children of all marriages declared void
146 under the law are nevertheless marital children.
- 147 (z) “Monthly income” means the obligor’s annual gross income or, if applicable, the
148 obligor’s annual income modified for business expenses; plus the obligor’s annual income
149 imputed based on earning capacity; plus the obligor’s annual income imputed from assets;
150 divided by twelve (12).
- 151 (aa) “Nation” means the Oneida Nation.
- 152 (bb) “Non-custodial parent” means the parent of a child who does not hold primary care,
153 custody and/or control of a child.
- 154 (cc) “Non-legally responsible relative” means a person connected with a child by blood,
155 marriage, or adoption who assumes responsibility for the care of a child without legal
156 custody, but is not in violation of a court order. A non-legally responsible relative does
157 not include a relative who has physical custody of a child during a court-ordered visitation
158 period.
- 159 (dd) “Obligee” means the person or entity to whom child support is owed.
- 160 (ee) “Obligor” means the person who is obliged to pay child support to the obligee.
- 161 (ff) “Ownership interest” means any personal financial interest.
- 162 (gg) “Parent” means the biological or adoptive parent of the child.
- 163 (hh) “Payor” means a person or entity with a legal obligation, as an employer, buyer of
164 goods, debtor, or otherwise, to pay an obligor.
- 165 (ii) “Reservation” means all lands within the exterior boundaries of the Reservation of the
166 Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and
167 any lands added thereto pursuant to federal law.
- 168 (jj) “Serial family obligor” means an obligor with an existing legal obligation for child
169 support who incurs an additional legal obligation for child support in a subsequent family
170 as a result of a child support order.
- 171 (kk) “Shared-placement obligor” means a parent who has an ordered period of placement
172 of at least twenty-five percent (25%), is ordered by the Family Court to assume the child’s

173 basic support costs in proportion to the time that the parent has placement of the child and
174 is determined to owe a greater support amount than the other parent.

175 (ll) “Split-placement obligor” means an obligor who has two (2) or more children and who
176 has physical placement of one (1) or more children but not all of the children.

177 (mm) “Stipulation” means a voluntary agreement between parties concerning some
178 relevant point.

179 (nn) “Substantial change of income” means the obligor has a significant change in his or
180 her finances that would lead to a change in child support of more than fifteen percent (15%)
181 and fifty dollars (\$50.00) per month.

182 (oo) “Variable costs” means the reasonable costs above basic support costs incurred by or
183 on behalf of a child, including but not limited to, the cost of child care, tuition, a child’s
184 special needs, and other activities that involve substantial cost.

185 (pp) “Threshold” means an amount, expressed as either a percentage of the monthly
186 amount due, a fixed dollar amount, or both, that the lien amount must equal or exceed
187 before an administrative enforcement action may be used to enforce a child support order.

188

189 **704.4. Jurisdiction**

190 704.4-1. The Family Court has jurisdiction over any action brought under this law.

191 704.4-2. *Personal Jurisdiction.* Personal jurisdiction over an individual under this law may be
192 established where one party or a child of the parties is any of the following:

193 (a) a member of the Nation;

194 (b) a resident of the Reservation who is also a member of an Indian tribe, band or
195 community which is recognized by a State or the federal government;

196 (c) a resident of the Reservation who is also the biological parent of the child that is
197 enrolled or is eligible for enrollment with the Nation; or

198 (d) an individual who consents to the jurisdiction of the Family Court by one (1) of the
199 following means:

200 (1) Filing an action with the Family Court;

201 (2) Knowingly and voluntarily giving written consent to the jurisdiction of the
202 Family Court;

203 (3) Entering a notice of appearance before the Family Court in an action without
204 concurrently preserving the defense of lack of personal jurisdiction or filing a
205 motion to dismiss for lack of personal jurisdiction within thirty (30) days of entering
206 the notice of appearance; or

207 (4) Appearing in an action before the Family Court without asserting the defense
208 of lack of personal jurisdiction.

209 704.4-3. Personal jurisdiction over the other party may be established using any method provided
210 by law, including long-arm jurisdiction procedures as provided for in Section 201 of the Uniform
211 Interstate Family Support Act as referred to in 42 U.S.C. §666.

212 704.4-4. *Transfer of Cases from Other Courts.* If personal jurisdiction over the parties has been
213 established under this law, the Family Court has jurisdiction over any action transferred to the
214 Family Court from any court of competent jurisdiction.

215

216 **704.5. Initiating an Action for Child Support**

217 704.5-1. Every parent has a duty to support each and every child of that parent. A child support
218 order may be obtained from the Family Court by either submitting a stipulation to the Family Court
219 for approval or by filing a petition for child support with the Family Court.

220 (a) If a party to the action is a minor or is a legally incompetent adult, the Family Court
221 may appoint a guardian ad litem to represent such party in the action.

222 704.5-2. *Initiation of Action by the Agency.* For assistance in initiating a child support order a
223 party may request the services of the Agency or may be referred to the Agency from an entitlement
224 program.

225 (a) Within thirty (30) days of receiving a completed application for services or a referral,
226 the Agency shall meet with the custodial parent.

227 (b) Within seven (7) business days of the meeting with the custodial parent, the Agency
228 shall send a Letter of Request for Support and Financial Disclosure form to the non-
229 custodial parent.

230 (b) If the non-custodial parent fails to respond to or take action on the Letter of Request
231 for Support and Financial Disclosure form within ten (10) business days the Agency may
232 initiate a hearing in accordance with this law.

233 (c) If the non-custodial parent responds within the required time period after receiving a
234 Letter of Request for Support and Financial Disclosure form, the parties shall attempt to
235 enter into a stipulation.

236 704.5-3. *Initiation of Action by a Party Not the Agency.* Any of the following individuals may
237 initiate an action for the establishment of child support at any time by filing a petition with the
238 Family Court:

239 (a) a custodial parent;

240 (b) a child's mother;

241 (c) a child's father;

242 (d) a child's guardian ad litem;

243 (e) a child's non-legally responsible relative; or

244 (f) a legally incompetent adult's guardian ad litem.

245 704.5-4. *Stipulation.* The parties may enter into a stipulation at any time as to the level of the
246 child support obligation.

247 (a) The Agency shall assist parties in reaching a stipulation upon request or when the
248 parties are referred to the Agency by an entitlement program. Parties may also submit a
249 stipulation to the Family Court for approval without the Agency's assistance.

250 (b) In order for a stipulation to be valid the following conditions shall be met:

251 (1) The stipulation shall be in writing, signed, and notarized;

252 (2) If the parties deviate from the percentage standards, the stipulation shall state
253 the amount of support that would have been ordered by the percentage standards
254 and the reasons for deviating from the percentage standards;

255 (3) All parties shall sign the stipulation free of duress and coercion; and

256 (4) The Family Court shall make written findings that the stipulation is appropriate,
257 using the criteria for deviating from standard percentages as a guideline, if
258 applicable.

259 (c) After the stipulation is approved and filed by the Family Court, it shall have the same
260 force and effect as an order issued by the Family Court. The obligation of the obligor to
261 pay child support shall commence on the date specified in the agreement, but no later than
262 the date the stipulation is approved and filed by the Family Court.

263 704.5-5. *Petition to Establish Child Support.* If the parties do not enter into a stipulation, then a
264 petition to establish child support may be filed with the Family Court. The petition to establish
265 child support may be filed as a separate proceeding or in connection with a petition for child
266 custody.

267 (a) *Requirements of the Petition.* The petition to establish child support shall include the
268 following:

269 (1) The name, date of birth, address, and tribal affiliation of the petitioner,
270 respondent, and child for whom support is requested;

271 (A) If the address of the respondent is unknown, other departments of the
272 Nation shall cooperate with the Family Court, at the Family Court's request,
273 to provide the Family Court with the respondent's address. Any such Family
274 Court requests shall be made in such a way which protects the privacy rights
275 of all parties and children who are involved in proceedings or actions under
276 this law.

277 (2) With whom the child currently resides;

278 (3) When and how paternity was established;

279 (4) Name and date of birth of other children of the parties, and the child support
280 obligation for those children, if applicable;

281 (5) Whether either party is receiving state or tribal benefits, and if so, what benefits;

282 (6) Whether any other action to determine child support has been commenced or
283 is pending in a court of another jurisdiction and whether a child support order has
284 been entered by another court;

285 (7) Financial information such as the parties' income;

286 (8) The relief the petitioner is requesting, which shall include, but is not limited to,
287 establishment of support, request for support back to date of filing, and/or any other
288 relief the court may deem just and equitable;

289 (9) *Confidential Petition Addendum.* The confidential petition addendum is a
290 separate form which has the parties and the child's name, date of birth and social
291 security number. This form shall be kept separate from the petition and shall be
292 maintained in a confidential file. The form shall be available only to the parties, the
293 parties' attorneys or advocates, the Agency, or any person authorized by the Family
294 Court to have access to the form.

295 (b) *Nondisclosure of Information in Protected Cases.* Upon a finding, which may be made
296 ex parte, that the health, safety or welfare of a party or child would be unreasonably put at
297 risk by the disclosure of identifying information, or if an existing order so provides, the
298 Family Court shall order that the address of the child or party, or other identifying
299 information, not be disclosed in a pleading or other document filed in a proceeding under
300 this law.

301 (c) *Hearing Date.* Upon receipt of a petition, the Family Court shall schedule a hearing to
302 determine child support to be held at a time after the filing of the petition and consistent
303 with the manner of service.

304 (d) *Summons.* All parties shall be notified of the petition and of all hearings, and shall be
305 given an opportunity to be heard.

306 (1) *Service of the Summons.* The summons, which notices the initiation of an
307 action, shall be served by certified mail (return receipt requested) or in person
308 within fifteen (15) calendar days after the petition is filed with the Family Court.
309 The summons shall include the Family Court clerk's return address, with a notice
310 to file an answer to that address. Any notice after the summons shall be served by
311 first-class mail to the recently verified last-known address of the party.

312 (A) *Certified mail.* Certified mail sent to a party's most recently verified
313 last-known address but returned because it was unclaimed or refused shall
314 constitute constructive service. Certified mail returned for other reasons

315 shall require service by other methods pursuant to the Oneida Judiciary
316 Rules of Civil Procedure.

317 (B) *Publication.* When a responding party cannot be found for personal
318 service after diligent attempts and attempts to serve the responding party by
319 certified mail have failed, the petitioner may use service by publication.
320 The publication shall be in the Nation's newspaper or a newspaper of
321 general circulation in the county of residence of the respondent, if known.
322 The publication shall be designated as a Legal Notice and any confidential
323 information shall be redacted.

324 (i) If service by publication is used and there is insufficient time for
325 notice and answer pursuant to this law, the Family Court shall re-
326 schedule the hearing appropriately and may permit extended time
327 deadlines for default orders and for hearings in order to provide for
328 fair notice and opportunity for the party to respond.

329 (2) *Requirements of the Summons.* The summons to be served on the
330 respondent(s), along with the petition, shall include the following notice, in addition
331 to providing a time, place, and date for appearance:

332 (A) That if he or she chooses not to appear at the hearing or enter a defense
333 to the petition challenging the authority of the Family Court to hear the
334 matter by the date of the hearing, the hearing shall proceed on the basis of
335 the petitioner's evidence;

336 (B) That a child support order may require the person found to be the
337 obligor to pay child support until the child reaches eighteen (18) years of
338 age or until the child graduates from high school, or its equivalent, up to age
339 nineteen (19);

340 (C) That the person found to be the obligor may have his or her license(s)
341 suspended or denied for failure to pay child support, in addition to other
342 enforcement actions;

343 (D) That the person found to be the obligor's employer or others with
344 evidence of the his or her income may be subpoenaed to provide the Family
345 Court with records of his or her earnings;

346 (E) That if the person found to be the obligor is unemployed, it shall still
347 be determined that he or she is able to provide some degree of child support
348 and an order of support shall be calculated according to this law unless the
349 Family Court makes written findings ordering otherwise; and

350 (F) That any answer to the petition shall be filed with the Family Court
351 within twenty (20) calendar days of the date of service of the petition, and
352 a copy served on the other party.

353 (e) *Answers.* Answers shall be filed with the Family Court and served on the petitioner
354 within twenty (20) calendar days of the date of service of the petition in accordance with
355 the Nation's laws and policies governing civil procedure.

356 (f) *Subpoenas.* Upon request of either party, the Family Court shall issue subpoenas to
357 any person in possession of relevant information to appear or produce documents to the
358 Family Court. Failure to comply with such a subpoena may be punishable as contempt.
359

360 **704.6. Child Support Hearing Procedures**

361 704.6-1. The factual determinations made at a hearing shall include, but is not limited to, the
362 income and expense information necessary to determine the appropriate level of support according
363 to this law.

364 704.6-2. The Family Court may utilize discovery procedures and contempt powers, as authorized
365 by any law, policy, or rule of the Nation to obtain information relevant to the establishment or
366 enforcement of child support. These procedures may include the following:

- 367 (a) Issue subpoenas requiring necessary and relevant parties to appear in person and
368 provide testimony;
369 (b) Issue subpoenas requiring the production of evidence;
370 (c) Obtain information about property or assets to assess its value or funding source for
371 lien or seizure actions;
372 (d) Obtain information about the income of any party to the action; and/or
373 (e) Issue contempt findings for failure to comply with the lawful order of the Family Court.

374 704.6-3. Both parties have the right to representation by an attorney and/or advocate at his or her
375 own expense. The Nation shall not be required to pay for any fees and/or expenses incurred by any
376 party in connection with proceedings under this law.

377 704.6-4. *Temporary Orders.* At any time after a child's parentage has been established, the Family
378 Court may make a temporary order for the payment of child support and the child's health care
379 expenses. Before making a temporary order, the Family Court shall consider all factors that the
380 Family Court is required to consider when granting a final child support order. If the Family Court
381 makes a temporary child support order that deviates from the amount of support that would be
382 required by using the percentage standard, the requirements of section 704.7-8 shall be complied
383 with.

384 704.6-5. *Default.* If the respondent fails to appear at the hearing upon a showing of valid service
385 and the petitioner presents evidence of the obligation by the absent party, a child support order
386 shall be entered pursuant to the evidence.

387 704.6-6. *Hearings and Records Closed.* Child support proceedings shall be closed to any person
388 other than those necessary to the action or proceeding. Records of child support cases shall remain
389 confidential and shall only be viewed by the parties, the legal guardian of a party who is a minor,
390 the parties' attorney or advocate, guardian ad litem, Judges and staff assigned to the case, and those
391 other persons who first obtain a written release from a party to view material contained in the
392 record.

393

394 **704.7. Determining the Child Support Obligation**

395 704.7-1. The Family Court shall determine child support payments by using the percentage
396 standards established in section 704.7-2 of this law, except as provided elsewhere in this law. The
397 obligor's monthly income shall be considered in determining his or her child support obligation.

398 704.7-2. *Percentage Standards to Determine the Amount of Child Support.*

- 399 (a) The following percentages shall be applied to the portion of an obligor's monthly
400 income available for child support that is less than seven thousand dollars (\$7,000):
401 (1) seventeen percent (17%) for one (1) child;
402 (2) twenty-five percent (25%) for two (2) children;
403 (3) twenty-nine percent (29%) for three (3) children;
404 (4) thirty-one percent (31%) for four (4) children; and
405 (5) thirty-four percent (34%) for five (5) or more children.

406 (b) The following percentages shall be applied to the portion of an obligor's monthly
407 income available for child support that is greater than or equal to seven thousand dollars
408 (\$7,000) and less than or equal to twelve thousand five hundred dollars (\$12,500):

- 409 (1) fourteen percent (14%) for one (1) child;
- 410 (2) twenty percent (20%) for two (2) children;
- 411 (3) twenty-three percent (23%) for three (3) children;
- 412 (4) twenty-five percent (25%) for four (4) children; and
- 413 (5) twenty-seven percent (27%) for five (5) or more children.

414 (c) The following percentages shall be applied to the portion of an obligor's monthly
415 income available for child support that is greater than twelve thousand five hundred dollars
416 (\$12,500):

- 417 (1) ten percent (10%) for one (1) child;
- 418 (2) fifteen percent (15%) for two (2) children;
- 419 (3) seventeen percent (17%) for three (3) children;
- 420 (4) nineteen percent (19%) for four (4) children; and
- 421 (5) twenty percent (20%) for five (5) or more children.

422 704.7-3. *Determining Income Modified for Business Expenses.* In determining an parent's
423 monthly income, the Family Court may adjust an parent's gross income as follows:

- 424 (a) Adding wages paid to dependent household members.
- 425 (b) Adding undistributed income that the Family Court determines is not reasonably
426 necessary for the growth of the business. The parent shall have the burden of proof to show
427 that any undistributed income is reasonably necessary for the growth of the business.
- 428 (c) Reducing gross income by the business expenses that the Family Court determines are
429 reasonably necessary for the production of that income or operation of the business and
430 that may differ from the determination of allowable business expenses for tax purposes.

431 704.7-4. *Determining Income Imputed Based on Earning Capacity.* When a parent's income is
432 less than the parent's earning capacity or is unknown, the Family Court may impute income to the
433 parent at an amount that represents the parent's ability to earn.

- 434 (a) The parent's ability to earn may be based on the parent's:
 - 435 (1) education, training, and recent work experience;
 - 436 (2) earnings during previous periods;
 - 437 (3) current physical and mental health;
 - 438 (4) history of child care responsibilities as the parent with primary physical
439 placement; and
 - 440 (5) the availability of work in or near the obligor's community.
- 441 (b) If evidence is presented that due diligence has been exercised to ascertain information
442 on the parent's actual income or ability to earn and that information is unavailable, the
443 Family Court may impute to the parent the income that a person would earn by working
444 thirty-five (35) hours per week for the federal minimum hourly wage. In addition to
445 imputed income, the Family Court may order the parent to search for a job or participate
446 in a work experience and job training program.
- 447 (c) If a parent has gross income or income modified for business expenses below his or
448 her earning capacity, the income imputed based on earning capacity shall be the difference
449 between the parent's earning capacity and the parent's gross income or income modified
450 for business expenses.

451 704.7-5. *Determining Income Imputed from Assets.*

- 452 (a) The Family Court may impute a reasonable earning potential to a parent's assets if the
453 Family Court finds both of the following:

454 (1) The parent has ownership and control over any real or personal property,
455 including but not limited to, life insurance, cash and deposit accounts, stocks and
456 bonds, business interests, net proceeds resulting from worker's compensation or
457 other personal injury awards not intended to replace income, and cash and corporate
458 income in a corporation in which the obligor has an ownership interest sufficient to
459 individually exercise control and the cash or corporate income is not included as
460 gross income.

461 (2) The parent's assets are underproductive and at least one (1) of the following
462 applies:

463 (A) The parent has diverted income into assets to avoid paying child
464 support.

465 (B) Income from the parent's assets is necessary to maintain the child or
466 children at the standard of living they would have had if they were living
467 with both parents.

468 (b) The Family Court shall impute income to assets by multiplying the total net value of
469 the assets by the current six (6) month treasury bill rate or any other rate that the Family
470 Court determines is reasonable and subtracting the actual income from the assets that were
471 included as gross income.

472 *704.7-6. Adjustment for Child's Social Security Benefits.* The Family Court may consider benefits
473 received by a child under 42 U.S.C. §402(d) based on a parent's entitlement to federal disability
474 or old-age insurance benefits under 42 U.S.C. §401 to 433 and adjust an obligor's child support
475 obligation by subtracting the amount of the child's benefit. In no case may this adjustment require
476 the obligee to reimburse the obligor for any portion of the child's benefit. If the obligor is receiving
477 the child's benefit, the support amount is either the percentage standard applied to the obligor's
478 income or the amount of the child's benefit, whichever is greater.

479 (a) *Determining the Child Support Obligations of Shared-Placement Parent when the*
480 *Child Receives Social Security Benefits.* If the shared-placement guidelines under section
481 704.8-2 apply, the child's benefit is split between the parents in proportion to the amount
482 of time the child spends with each parent. Add the proportion of the child's benefit that
483 represents the proportion of time the child spends with the parent not receiving the benefit
484 to the support obligation of the parent who is receiving the child's benefit. Child support
485 shall be determined as follows:

486 (1) Determine each parent's monthly income available for child support under
487 section 704.7-2. If a parent has one (1) or more previous child support obligations,
488 determine the parent's monthly income available for child support adjusted for the
489 previous obligations as provided in section 704.8-1. Include the parent's federal
490 disability or old age insurance benefits under 42 U.S.C. §401 to 433 in that parent's
491 income, but do not include the child's benefit under 42 U.S.C. §402 (d) in either
492 parent's income.

493 (2) Multiply each parent's monthly income available for child support by the
494 appropriate percentage standard under section 704.7-2.

495 (3) Multiply each amount determined under section 704.7-6(a)(2) by one hundred
496 and fifty percent (150%).

497 (4) Multiply the amount determined for each parent in section 704.7-6(a)(3) by the
498 proportion of time that the child spends with the other parent.

499 (5) Multiply the amount of the child's benefit by the proportion of the time the
500 child spends with the parent who is not receiving the child's benefit.

501 (6) Add the amount in section 704.7-6(a)(5) to the child support obligation
502 calculated in section 704.7-6(a)(4) for the parent who is receiving the child's
503 benefit.

504 (7) Offset the resulting amounts against each other. The parent with the greater
505 child support obligation is the shared-placement obligor. The shared-placement
506 obligor shall pay either the greater of the amount determined in this subsection or
507 the amount determined using the appropriate percentage standard under section
508 704.7-2.

509 *704.7-7. Claiming Children for Tax Purposes.* The Family Court may address who may claim
510 the child for tax purposes or accept a stipulation entered into by the parties regarding children and
511 taxes.

512 *704.7-8. Deviation from the Percentage Standards.* Upon request by a party, the Family Court
513 may modify the amount of child support payments determined by the percentage standards if, after
514 considering the following factors, the Family Court finds by the greater weight of the credible
515 evidence that use of the percentage standards is unfair to the child or to any of the parties:

- 516 (a) The financial resources of the child;
- 517 (b) The financial resources of both parents;
- 518 (c) Maintenance received by either party;
- 519 (d) The needs of each party in order to support himself or herself at a level equal to or
520 greater than the federal poverty line as established under 42 U.S.C. §9902(2);
- 521 (e) The needs of any person, other than the child, whom either party is legally obligated to
522 support;
- 523 (f) The standard of living the child would have enjoyed if his or her parents were living
524 together;
- 525 (g) The desirability that the custodial parent remain in the home as a full-time parent;
- 526 (h) The cost of day care if the custodial parent works outside the home, or the value of
527 custodial services performed by the custodial parent if the custodial parent remains in the
528 home;
- 529 (i) The award of substantial periods of physical placement to both parents;
- 530 (j) Extraordinary travel expenses incurred in exercising the right to periods of physical
531 placement;
- 532 (k) The physical, mental, and emotional health needs of the child, including any costs for
533 health insurance;
- 534 (l) The child's educational needs;
- 535 (m) The tax consequences to each party;
- 536 (n) The best interests of the child;
- 537 (o) The earning capacity of each parent, based on each parent's education, training and
538 work experience and the availability of work in or near the parent's community; and
- 539 (p) Any other factors which the Family Court in each case determines are relevant.

540 *704.7-9. Past-due and Arrears obligations.*

- 541 (a) A party may request payment of arrears or past-due child support as follows:
 - 542 (1) In an action regarding paternity, back to the date of birth of the child or date of
543 application, whichever is later;
 - 544 (2) In a child support establishment or modification pursuant to this law, back to
545 the date of application, review, or referral; or
 - 546 (3) In an establishment or modification of placement pursuant to an action
547 regarding divorce, annulment and legal separation or child custody, placement, and
548 visitation, back to the date of filing, or as otherwise ordered by the Family Court.

549 (b) A payment for arrears or a past-due payment shall be set based on the amount due and
550 the income available to pay current support.

551 (c) Once current child support is ended in any manner prescribed by law, child support
552 shall continue to be paid at the same rate, until all arrears or past due child support is paid
553 in full.

554

555 **704.8. Determining the Child Support Obligation in Special Circumstances**

556 704.8-1. *Determining the Child Support Obligation of a Serial-Family Obligor.*

557 (a) *Applicability.* This applies only if the support obligation being calculated is for children
558 from a subsequent family or subsequent paternity judgment or acknowledgment. An
559 obligor may not use the provisions of this section as a basis for seeking modification of an
560 existing order based on a subsequently incurred legal obligation for child support.

561 (b) *Determination.* For a serial-family obligor, the child support obligation incurred for a
562 marital or non-marital child in a subsequent family as a result of a child support order may
563 be determined as follows:

564 (1) Determine the obligor's monthly income.

565 (2) Determine the order of the obligor's legal obligations for child support by
566 listing them according to the date each obligation is incurred.

567 (A) For a marital child, the legal obligation for child support is incurred on
568 the child's date of birth.

569 (B) For a non-marital child, the legal obligation for child support is incurred
570 on the date that paternity is legally established.

571 (C) For a non-marital paternal child in an intact family, it is incurred on the
572 date of adoption or the date that paternity is legally established.

573 (D) For a non-marital maternal child in an intact family, it is incurred on
574 the child's date of birth.

575 (3) Determine the first child support obligation as follows:

576 (A) If the obligor is subject to an existing support order for that legal
577 obligation, except a shared-placement order, the support for that obligation
578 is the monthly amount of that order; or

579 (B) If the obligor is in an intact family, has primary placement of another
580 child, or is subject to a shared-placement order, the support is determined
581 by multiplying the appropriate percentage for that number of children by
582 the obligor's monthly income.

583 (4) Adjust the monthly income by subtracting the support for the first legal
584 obligation from the obligor's monthly income.

585 (5) Determine the second child support obligation as follows:

586 (A) If the obligor is subject to an existing support order for that legal
587 obligation, except a shared-placement order, the support for that obligation
588 is the monthly amount of that order; or

589 (B) If the obligor is in an intact family or is subject to a shared-placement
590 order, the support is determined by multiplying the appropriate percentage
591 for that number of children by the obligor's monthly income.

592 (6) Adjust the monthly income a second time by subtracting the support for the
593 second legal obligation from the first adjusted monthly income.

594 (7) Repeat the procedure for determining the child support obligation and adjusting
595 the monthly income for each additional legal obligation for child support the serial
596 family obligor has incurred.

597 (8) Multiply the appropriate percentage for the number of children subject to the
598 new order by the final adjusted monthly income to determine the new child support
599 obligation.

600 704.8-2. *Determining the Child Support Obligations of Shared-Placement Parents.*

601 (a) *Applicability.* The shared-placement formula may be applied when both of the
602 following conditions are met:

603 (1) Both parents have periods of placement of at least twenty-five percent (25%)
604 or ninety-two (92) days a year. When calculating periods of placement based on
605 equivalent care, the total number of overnights may exceed three hundred and sixty-
606 five (365). The period of placement for each parent shall be determined by
607 calculating the number of overnights or equivalent care ordered to be provided by
608 the parent and dividing that number by the total number of overnights in a year.
609 The combined periods of placement for both parents shall equal one hundred
610 percent (100%).

611 (2) Each parent is ordered by the Family Court to assume the child's basic support
612 costs in proportion to the time that the parent has placement of the child.

613 (b) *Determination.* The child support obligations for parents who meet the requirements
614 for the shared-placement formula may be determined as follows:

615 (1) Determine each parent's monthly income.

616 (A) In determining whether to impute income based on earning capacity
617 for an unemployed parent or a parent employed less than full time, the
618 Family Court shall consider benefits to the child of having a parent remain
619 in the home during periods of placement and the additional variable day
620 care costs that would be incurred if the parent worked more.

621 (2) Multiply each parent's monthly income by the appropriate percentage standard.

622 (3) Multiply each amount determined under section 704.8-2(b)(2) by one hundred
623 and fifty percent (150%).

624 (4) Multiply the amount determined for each parent under section 704.8-2(b)(3) by
625 the proportion of the time that the child spends with the other parent to determine
626 each parent's child support obligation.

627 (5) Offset resulting amounts under section 704.8-2(b)(4) against each other. The
628 parent with a greater child support obligation is the shared-placement obligor. The
629 shared-placement obligor shall pay the lesser of the amount determined under this
630 section or the amount determined using the appropriate percentage standard. If the
631 shared-placement obligor is also a low-income obligor, the child support obligation
632 may be the lesser of the amount determined under the shared placement
633 determination or the low-income determination.

634 (6) In addition to the child support obligation determined under section 704.8-
635 2(b)(5), the Family Court shall assign responsibility for payment of the child's
636 variable costs in proportion to each parent's share of physical placement, with due
637 consideration to a disparity in the parents' incomes.

638 (A) The Family Court shall direct the manner of payment of a variable cost
639 order to be either between the parents or from a parent to a third-party
640 service provider.

641 (B) The Family Court shall not direct payment of variable costs to be made
642 to the Agency or the Agency's designee, except as incorporated in the child
643 support order.

644 (7) A change in the child's variable costs shall not in and of itself be considered a
645 substantial change in circumstances sufficient to justify a modification of a
646 judgment or order under section 704.10.

647 **704.8-3. *Determining the Child Support Obligations of Split-Placement Parents.***

648 (a) *Applicability.* The split-placement formula may be applied when parents have two (2)
649 or more children and each parent has placement of one (1) or more but not all of the
650 children.

651 (b) *Determination.* The child support obligation for a split-placement parent may be
652 determined as follows:

- 653 (1) Determine each parent's monthly income.
- 654 (2) Determine the appropriate percentage standard for the number of total children.
- 655 (3) Divide the appropriate percentage standard for the number of total children by
656 the total number of children.
- 657 (4) Multiply the number calculated in section 704.8-3(b)(3) by the number of
658 children placed with each parent.
- 659 (5) Multiply each parent's monthly income by the number calculated in 704.8-
660 3(b)(4) based on the number of children placed with the other parent to determine
661 each parent's child support obligation; and
- 662 (6) Offset resulting amounts under section 704.8-3(b)(5) against each other. The
663 parent with a greater child support obligation is the split-placement obligor.

664 **704.8-4. *Determining the Child Support Obligation of a Low-Income Obligor.***

665 (a) *Applicability.* If an obligor's total economic circumstances limit his or her ability to
666 pay support at the level determined by the standard percentage standards, then the low-
667 income obligor standards found in the Child Support Obligation of Low-Income Payers
668 Schedule may be used.

669 (b) *Determination.* The Family Court may use the monthly support amount provided in
670 the Child Support Obligation of Low-Income Payers Schedule as the support amount for
671 an obligor with a monthly income at a level set forth in the schedule.

- 672 (1) If an obligor's monthly income is below the lowest income level in the Child
673 Support Obligation of Low-Income Payers Schedule, the Family Court may set an
674 order at an amount appropriate for the obligor's total economic circumstances. This
675 amount may be lower than the lowest support amount in the Child Support
676 Obligation of Low-Income Payers Schedule

677

678 **704.9. Child Support Order**

679 **704.9-1. *Expression of Ordered Support.*** The child support amount shall be expressed as a fixed
680 sum.

681 **704.9-2. *Interest on Arrears.*** The Nation shall not charge an obligor ordered to pay child support
682 interest on any arrears.

683 **704.9-3. *Income Withholding.*** The child support order shall provide for immediate income
684 withholding.

- 685 (a) A copy of the Family Court's income withholding order shall be sent by the Agency to
686 a payor within three (3) business days of the entry of the order of the Family Court by mail,
687 fax, or electronic means.

- 688 (b) An order to withhold income shall be binding against future payors upon actual notice
689 of the income withholding order through notice by mail, fax, or electronic means.
- 690 (c) Income shall not be subject to withholding only where:
- 691 (1) One of the parties demonstrates, and the Family Court finds, that there is good
692 cause not to require income withholding due to one of the following:
- 693 (A) There is an error in the amount of current or overdue support; or
694 (B) The identity of the obligor is mistaken.
- 695 (2) The parties reach a written agreement which provides for an alternative
696 arrangement that is approved by the Family Court.
- 697 (d) No payor shall refuse to honor an income withholding order executed pursuant to this
698 law. A payor shall begin withholding income immediately after notice of an income
699 withholding order made pursuant to this law. Within five (5) business days after the payor
700 pays the obligor, the payor shall send the amount withheld to the Wisconsin Support
701 Collections Trust Fund.
- 702 (e) A payor shall be liable for one hundred percent (100%) of the child support order, or
703 the amount of money that should have been withheld from the obligor's earnings,
704 whichever is the lesser amount, if the payor:
- 705 (1) Fails or refuses, after being noticed of an income withholding order, to deduct
706 or promptly remit the amounts of money required in the order;
- 707 (2) Fails or refuses to submit an answer to the notice of income withholding after
708 being noticed; or
- 709 (3) Is unwilling to comply with the other requirements of this law.
- 710 (f) A payor shall not discharge from employment, refuse to employ, or otherwise take
711 disciplinary action against any obligor solely because he or she is subject to income
712 withholding.
- 713 (1) When the Family Court finds that a payor has taken any of these actions, the
714 payor shall be liable for a civil penalty. Any payor who violates any provision of
715 this paragraph shall be liable in a civil action for reasonable damages suffered by
716 an obligor as a result of the violation, and an obligor discharged or demoted in
717 violation of this paragraph shall be entitled to be reinstated to his or her former
718 position.
- 719 (2) The statute of limitations for actions under this section shall be one (1) year.
- 720 (g) A payor who repeatedly fails to comply with an income withholding order as required
721 by this law may be subject to a fine, not to exceed five hundred dollars (\$500), or have its
722 Oneida vendor license revoked or suspended, if applicable, until compliance with this law
723 is assured.
- 724 (1) The vendor license issuing agency shall comply with the Family Court order to
725 revoke or suspend a vendor license.
- 726 (h) If income withholding is inapplicable, ineffective or insufficient to ensure payment of
727 child support, the Family Court may require the obligor to establish an account for the
728 purpose of transferring child support payments.
- 729 (i) The total amount withheld under an income withholding order shall not exceed the
730 maximum amount permitted under section 303(b) of the Consumer Credit Protection Act
731 (15 U.S.C. §1673(b)).
- 732 (j) Non-Indian off-reservation payors shall be subject to income withholding under 28
733 U.S.C. §1738B.
- 734 704.9-4. *Conditions of the Order.* The Family Court may require a party, or both parties, to use
735 the services available to him or her to obtain and maintain regular employment and/or job training.

736 704.9-5. *Support Order Notice Requirements.* Each order for child support shall include:

737 (a) An order that the obligor and obligee notify the Agency of any change of address or
738 name change within ten (10) business days of such change; and

739 (b) An order that the obligor notify the Agency and the obligee of any change of employer
740 or substantial change of income within ten (10) business days of the change.

741 704.9-6. *Enforcement of Order.* A child support order under this section is enforceable as
742 contempt.

743 704.9-7. *Collection and Distribution of Child Support.* The Agency shall collect and distribute
744 child support monies pursuant to regulations set forth in the Social Security Act 45 CFR 309.115.

745 704.9-8. *Trust.* The Family Court may protect and promote the best interests of the minor children
746 by setting aside a portion of the child support that either party is ordered to pay in a separate fund
747 or trust for the support, education, and welfare of such children.

748 704.9-9. *Non-Cash Payments.*

749 (a) Non-cash payments may be used to satisfy part or all of a child support order if the
750 parties and the Family Court agree to allow non-cash payments. Non-cash payments shall
751 not be used to fulfill arrears. If non-cash payments are allowed, the order shall:

752 (1) state the specific dollar amount of the support obligation;

753 (2) state the maximum amount (in dollars) of non-cash payment that the obligee
754 will accept;

755 (3) describe the type of non-cash payment that is permitted;

756 (4) provide that non-cash payment cannot be used to satisfy assigned child support
757 obligations.

758 (b) When both parents are in agreement that non-cash payments may be used to satisfy a
759 child support obligation, the non-cash payment may include, but is not limited, to the
760 following:

761 (1) Clothing;

762 (2) Groceries;

763 (3) Child Care;

764 (4) Deer/Venison;

765 (5) Wood;

766 (6) Transportation;

767 (7) Skilled trades or services, such as car repairs, lawn care and snow removal;
768 and/or

769 (8) Gift cards.

770 (c) When a non-cash payment is used to satisfy part or all of a child support order, the
771 obligor and obligee shall submit any forms required by the Agency within the month that
772 the non-cash payment is made. If there are less than five (5) business days left in the month
773 when a non-cash payment is made, the obligor and obligee have five (5) business days to
774 submit any required forms to the Agency. The Agency shall be responsible for applying
775 the non-cash payment towards the child support order during the appropriate month.

776

777 **704.10. Modification of a Child Support Order**

778 704.10-1. *Review of the Child Support Order.* Every two (2) years, the Agency shall conduct a
779 review of the child support order. The Agency shall notify the non-custodial parent, custodial
780 parent, and any interested party that a review of their child support order shall be conducted.

781 704.10-2. *Modification of Child Support Sought by the Agency.* After the two (2) year review is
782 conducted by the Agency, the Agency shall seek an order to modify the child support obligation if

783 there is a substantial change in circumstances, unless otherwise stipulated by the parties. A
784 substantial change in circumstances includes, but is not limited to:

- 785 (a) the child's placement is changed;
- 786 (b) either parent or the child has a significant change in his or her finances that would lead
787 to a change in child support of more than fifteen percent (15%) and fifty dollars (\$50.00)
788 per month;
- 789 (c) the obligee is receiving public assistance benefits and is required to have a current
790 support order in place;
- 791 (d) it has been twenty-four (24) months since the date of the last child support order or
792 revision to the child support order, unless the child support amount is expressed as a
793 percentage; or
- 794 (e) a change has occurred and if the current circumstances had been in place at the time
795 the order was issued, a significantly different order would have been issued.

796 704.10-3. *Modification of Child Support Sought by the Parties.* Either party, not including the
797 Agency, may file a motion for a modification of a child support order at any time based upon a
798 substantial change of circumstances supported by affidavit.

- 799 (a) Such motion shall state why the previous decision should be prospectively modified.
- 800 (b) The motion and affidavit shall be served by the moving party on the responding party
801 by first-class mail to the recently verified last-known address, or by any method provided
802 by law.
- 803 (c) A hearing date shall be scheduled no sooner than ten (10) calendar days after the date
804 of service.

805 704.10-4. An obligor shall not raise a substantial change in circumstances as a reason not to pay
806 a current child support order or arrears. If a child support order becomes unjust due to a substantial
807 change in circumstances of the obligor, the obligor has the duty to file a petition or motion with
808 the Family Court for a modification to the child support order at that time.

809

810 **704.11. Modification of a Child Support Order for an Incarcerated Parent**

811 704.11-1. In the event an obligor is incarcerated for one hundred and eighty (180) days or more,
812 the obligor shall have the right to have the Agency review his or her child support order to
813 determine if modification or suspension of the child support order is appropriate. The obligor shall
814 notice the Agency of his or her incarceration.

- 815 (a) An ordered child support obligation shall be suspended for an incarcerated obligor who
816 has been sentenced to one hundred and eighty (180) days or more and has an income of
817 less than two hundred dollars (\$200) per month.
- 818 (b) If while incarcerated the obligor's income is two hundred dollars (\$200) or more per
819 month the Agency shall review the order and seek temporary modification of the child
820 support order based on the incarcerated obligor's income, if necessary.
- 821 (c) Child support obligations shall not be suspended or modified for an obligor who is
822 incarcerated for a criminal offense which includes:
 - 823 (1) felony failure to pay support;
 - 824 (2) a crime against a child; and/or
 - 825 (3) a crime against the obligee.
- 826 (d) Past due child support related debt and/or arrears shall not be suspended or reduced as
827 a result of the obligor's incarceration without stipulation by the parties.

828 704.11-2. *Notification of Review.* Within fifteen (15) business days of the receipt by the Agency
829 of verification of the obligor's incarceration, the Agency shall send out a letter to the parties of the

830 case informing them of the obligor's right to have his or her child support obligation reviewed,
831 and of the Agency's intent to review the current child support order.

832 704.11-3. *Agency Review of Order.* The Agency shall review the obligor's child support order
833 and make one of the following determinations:

834 (a) that the obligor's income while incarcerated is two hundred dollars (\$200) or more per
835 month, and the Agency shall seek temporary modification of the obligor's child support
836 order based on the incarcerated obligor's income, if necessary; or

837 (b) that the obligor's income while incarcerated is less than two hundred dollars (\$200)
838 per month, and the Agency shall seek temporary suspension of the obligor's child support
839 order while incarcerated.

840 704.11-4. *Suspension of Order by the Agency.* If the Agency determines the obligor's income is
841 less than two hundred dollars (\$200) per month while incarcerated, the Agency shall file with the
842 Family Court a Motion and Order to Suspend without a request for a hearing with notice to all
843 parties that the child support order shall be suspended.

844 (a) Either party shall have the right to object to the suspension of the order within ten (10)
845 business days of the date of the notice by filing such objection with the Family Court and
846 providing a copy of the objection to the Agency.

847 (b) If no objection to the suspension is received, the Family Court shall enter the order as
848 proposed.

849 (c) Upon receipt of an objection from either party, the Family Court shall schedule a
850 hearing on the issue.

851 704.11-5. *Modification of Order by the Agency.* If the Agency determines the obligor's income
852 is two hundred dollars (\$200) per month or more while incarcerated, the Agency shall file with the
853 Family Court a Motion to Modify.

854 (a) The Family Court shall schedule a hearing on the motion with the Agency providing
855 notice to all parties with the proposed modification to the child support order by first class
856 mail at least ten (10) business days prior to the hearing.

857 (b) If no objection to the modification is received at the hearing, the Family Court shall
858 enter the order as proposed.

859 704.11-6. *Modification of the Order by the Incarcerated Parent.* The incarcerated parent may
860 seek modification of his or her own child support order by filing a motion to modify with the
861 Family Court in accordance with section 704.10-3.

862 704.11-7. If during the term of incarceration, the Agency receives notification of a change in the
863 obligor's employment and/or income, the Agency shall review the obligor's order and determine
864 if the obligor's income is two hundred dollars (\$200) or more per month, and whether it is
865 necessary to temporarily modify or suspend the obligor's child support order.

866 (a) If the Agency determines that suspension of the obligor's order is necessary, then the
867 procedure for filing a Motion and Order to Suspend without a request for a hearing
868 described in section 704.11-4 shall be followed.

869 (b) If the Agency determines that modification of the obligor's order is necessary, then the
870 procedure for filing a Motion to Modify described in section 704.11-5 shall be followed.

871 704.11-8. *Reinstatement of Prior Order.* Sixty (60) days after the obligor's release from
872 incarceration, the child support order shall be administratively reinstated by the Agency to the
873 previous child support order in effect before the suspension or modification of the order based on
874 the obligor's incarceration.

875 (a) The Agency shall send notice to both parties of the obligor's release from incarceration
876 and the intent of the Agency to reinstate the original order.

877

878 **704.12. Compliance Plan**

879 704.12-1. If at any time the obligor is, or may become, non-compliant with his or her child support
880 order by failing to pay support as ordered or meeting a required obligation or action, the Agency
881 shall meet with the obligor to develop a compliance plan.

882 704.12-2. An Appointment Letter may be sent by the Agency at any time deemed appropriate, but
883 the Agency shall send out the Appointment Letter at least thirty (30) days prior to the initiation of
884 any enforcement action.

885 (a) The Letter shall request the party meet with the Agency to discuss barriers to payment
886 and how to avoid future enforcement action.

887 (b) If the party does not respond to the Letter within five (5) business days after receipt of
888 the letter, the Agency may proceed with appropriate enforcement action.

889 (c) If the obligor responds to the Letter, the Agency shall interview the party to determine
890 the reasons and barriers for the non-compliance and create a compliance plan. The
891 compliance plan may include an increase in payment and/or any activity that is necessary
892 to assist in payment, including programs that focus on:

- 893 (1) Employment and training;
- 894 (2) Social service and mental health;
- 895 (3) Physical and learning disabilities;
- 896 (4) Tribal traditions and customs;
- 897 (5) Family counseling and parenting; and
- 898 (6) Any other program deemed necessary.

899 (d) If the party successfully completes the compliance plan, no further enforcement action
900 is necessary. However, if the party fails to complete the compliance plan, the Agency shall
901 proceed with appropriate enforcement action.

902

903 **704.13. Enforcement of an Order**

904 704.13-1. An obligor may be subject to enforcement actions when the obligor is at least one (1)
905 month delinquent in paying his or her child support obligation. Enforcement actions may include
906 administrative enforcement action by the Agency and enforcement action by the Family Court.

907 (a) An obligor shall be provided with notice of an enforcement action of at least thirty (30)
908 days before an enforcement action is used, unless another timeline is specified.

909 (b) An enforcement action shall be stayed and/or suspended after notice is given to the
910 obligor if the obligor pays the debt in full or enters into, and maintains, an alternative
911 payment plan and/or a compliance plan with the Agency.

912 704.13-2. *Agency Responsibilities in the Enforcement of an Order.* The Agency shall have the
913 following responsibilities in the enforcement of an order:

914 (a) Track and document the progress of an obligor who is under an enforcement action;

915 (b) Take additional enforcement action when an obligor fails to comply with a previous
916 enforcement action;

917 (c) Document the reasons why an enforcement action is not taken, when such action would
918 have been appropriate under the circumstances; and

919 (d) Assist in refunding amounts that were improperly withheld, terminate income
920 withholding when appropriate, and allocate amounts across multiple cases.

921 704.13-3. *Notice to the Obligor of Delinquency.* In the event that an obligor owes a debt equal to
922 or exceeding the monthly amount due, the Agency shall send a notice of delinquency to the obligor.
923 The notice of delinquency shall inform the obligor of the following:

924 (a) The total amount of the delinquency; and

925 (b) The enforcement action that may be taken as a result of the delinquency.
926 704.13-4. *Notice to the Obligor of Enforcement Action.* After the obligor has been noticed of his
927 or her delinquency, and at least twenty (20) days prior to an enforcement being used against an
928 obligor, the Agency shall send a notice of enforcement action to the obligor.

929 (a) The notice of enforcement action shall inform the obligor of the following:
930 (1) The total amount of the delinquency;
931 (2) The enforcement action that may be taken as a result of the delinquency;
932 (3) The obligor may request, in writing to the Agency, to negotiate an alternative
933 payment plan with the Agency within ten (10) business days after the notice in order
934 to stay any enforcement action;
935 (4) The obligor has ten (10) business days after the notice of enforcement action to
936 file an objection with the Agency presenting good cause why an arrears payment
937 or other enforcement action should not be implemented. The only allowable
938 objections are:

939 (A) There is an error in the amount of current or overdue support; or
940 (B) The identity of the obligor is mistaken.

941 (b) If the obligor does not file an objection or request to negotiate an alternative payment
942 plan:

943 (1) the enforcement action shall be taken; and/or
944 (2) an income withholding order, or revised order if one is already in place, shall
945 be imposed on the payor. No more than an additional twenty percent (20%) of the
946 current support payment order can be withheld to satisfy the delinquency provided
947 that the total amount withheld does not exceed forty percent (40%) of the obligor's
948 monthly income.

949 (c) If a permissible objection is filed, the obligor shall be entitled to a hearing before any
950 enforcement action is taken.

951 704.13-5. *Use of Mail for Notices.* The Agency shall send notices related to the delinquency of
952 an obligor and enforcement of a child support order by mail to the last-known mailing address
953 provided by the obligor.

954 (a) If the notice is returned, the Agency shall send notice to the obligor using the current
955 employer mailing address provided by the obligor.

956 (b) If the notice to the obligor mailed to the obligor's employer is returned, the Agency
957 shall use all appropriate tribal, federal, state and local resources to ascertain an obligor's
958 current mailing address.

959 (c) If those resources are used for a period of thirty (30) days and a verified mailing address
960 has not been identified, the Agency may proceed with the administrative enforcement
961 action.

962 704.13-6. *Notice to the Obligee of Enforcement Proceedings.* The Agency shall provide written
963 notice to the obligee when an enforcement action has been initiated against the obligor or when
964 the obligor requests a hearing and the hearing has been scheduled. The notice to the obligee shall
965 be sent at the same time notice is sent to the obligor.

966 704.13-7. *Notice to Individuals Other Than the Obligor with a Recorded Ownership Interest in*
967 *Property.* The Agency shall provide notice related to the seizure of property to any individual,
968 other than the obligor, with a recorded ownership interest in property subject to seizure. The
969 individual may request a hearing for a determination of the proportion of the value of the property
970 that is attributable to his or her net contribution to the property. The hearing shall be requested
971 within thirty (30) days after the notice was received by the individual.

972

973 **704.14. Alternative Payment Plans**

974 704.14-1. *Applicability of Alternative Payment Plans.* When an obligor is subject to
975 administrative enforcement action, he or she may negotiate an alternative payment plan with the
976 Agency.

977 704.14-2. *Negotiation of an Alternative Payment Plan After Receiving Notice of an Enforcement*
978 *Action.*

979 (a) In order to negotiate an alternative payment plan, an obligor shall submit a written
980 request to the Agency.

981 (1) A written request to negotiate an alternative payment plan received by the
982 Agency within ten (10) business days after the date of notice shall stay any
983 administrative enforcement action.

984 (2) If a written request to negotiate an alternative payment plan is received by the
985 Agency more than ten (10) business days after the date of notice, administrative
986 enforcement action may be taken, as long as the requirements for staying or
987 suspension of administrative enforcement actions are met.

988 (b) An obligor may negotiate a plan with the Agency to have a license suspension lifted.

989 (c) *Hearings for Negotiations of an Alternative Payment Plan.* The obligor may submit a
990 written request for a hearing with the Family Court regarding negotiations of an alternative
991 payment plan in the following circumstances:

992 (1) The obligor and the Agency have agreed to terms of a plan, but the obligor
993 wants the Family Court to consider the reasonableness of the plan.

994 (A) The obligor may submit this written request for a hearing on the
995 reasonableness of the plan within ten (10) business days after the terms of
996 the plan are agreed upon.

997 (2) The obligor and the Agency are unable to reach agreement on the terms of a
998 plan.

999 (A) The Family Court may order a plan by setting conditions and/or
1000 payments in the amounts and at the times it considers reasonable.

1001 (d) *Proceeding with Administrative Enforcement Actions.* The Agency may continue with
1002 the administrative enforcement action if:

1003 (1) the obligor and the Agency are unable to negotiate a plan;

1004 (2) the Family Court determines that the plan is not reasonable; and/or

1005 (3) the Family Court does not order a plan.

1006 704.14-3. *Disclosure of Income and Assets.* The request to negotiate a plan shall include an
1007 agreement by the obligor to provide the Agency with a full disclosure of income and assets
1008 available. The obligor shall provide complete income and assets information to the Agency within
1009 five (5) business days of the request to negotiate a plan.

1010 704.14-4. *Terms of an Alternative Payment Plan.*

1011 (a) An alternative payment plan may include a lump-sum payment, or periodic payments
1012 on the arrears, or both, subject to the following standards:

1013 (1) The sum of any periodic payment established under the plan and any other
1014 payment of support ordered by the Family Court, when subtracted from the
1015 obligor's gross income, may not leave the obligor below one hundred percent
1016 (100%) of the poverty line established under 42 U.S.C. §9902 (2) unless the obligor
1017 agrees otherwise.

1018 (2) When establishing an alternative payment plan, the Agency shall consider the
1019 factors used by the Family Court in determining whether the use of the percentage
1020 standard is unfair to the child or any of the parties.

1021 (b) Periodic payments under the plan may be made through income withholding in
1022 amounts in addition to the amount ordered in the child support order that is in effect.

1023 704.14-5. *Staying Administrative Enforcement Actions.* Administrative enforcement actions shall
1024 be stayed by the Agency while the obligor and the Agency are negotiating a plan, or, if a hearing
1025 is requested because an agreement cannot be reached or the reasonableness of the plan is
1026 questioned, until the Family Court determination has been made. To stay an administrative
1027 enforcement action means the following:

1028 (a) The obligor shall not be certified for denial, nonrenewal, restriction, or suspension of
1029 any State or Oneida-issued licenses;

1030 (b) Any frozen financial accounts shall remain frozen and shall not be seized; and

1031 (c) Personal property that has been seized shall not be sold.

1032 704.14-6. *Suspension of Administrative Enforcement Actions.*

1033 (a) When a plan has been negotiated between the obligor and the Agency, or the Family
1034 Court has determined that a plan is reasonable or has ordered a plan, the Agency shall
1035 suspend administrative enforcement actions as long as the obligor complies with the plan
1036 or requests a hearing because of a substantial change in circumstances.

1037 (b) If an obligor makes an arrears payment agreeable to the Agency, the administrative
1038 enforcement action shall be suspended.

1039 704.14-7. *Default on an Alternative Payment Plan.* In the event that the obligor defaults on the
1040 plan, the Agency shall notify the obligor in writing that an administrative enforcement action shall
1041 be implemented unless the child support lien is paid in full.

1042 704.14-8. *Renegotiation of an Alternative Payment Plan.* After the entry of an alternative payment
1043 plan, the plan may be renegotiated upon the written request of the obligor or Agency if the
1044 requesting party can show a substantial change in circumstances. A substantial change in
1045 circumstances includes any of the following:

1046 (a) A change in the obligor's income or assets, including the sale or purchase of real or
1047 personal property;

1048 (b) A change in the obligor's earning capacity; and/or

1049 (c) Any other factor that the Agency determines is relevant.

1050

1051 **704.15. Administrative Enforcement Action**

1052 704.15-1. The Agency shall have the authority to use administrative enforcement actions to
1053 enforce a child support order without obtaining an order from the Family Court in the event that
1054 an obligor is at least one (1) month delinquent in paying his or her child support obligations.

1055 704.15-2. *Liens.* The Agency shall have an obligor placed on the lien docket if the obligor owes
1056 a debt in one or more of the obligor's cases equal to or exceeding the monthly amount due or five
1057 hundred dollars (\$500.00), whichever is greater.

1058 (a) *Lien Amount.* The lien amount on the lien docket shall equal the sum of lien amounts
1059 from the cases in which the lien amount meets or exceeds the lien threshold.

1060 (b) *Filing Date.* The filing date on the lien docket is the date that a lien is first docketed
1061 and delivered to the register of deeds. The filing date is the effective date of the lien. The
1062 effective date does not change if the lien amount is adjusted up or down within five (5)
1063 years after the date that the lien is first docketed.

- 1064 (c) *Lien Priority*. The child support lien shall have priority over all other liens on property
1065 except:
- 1066 (1) tax and special assessment liens;
 - 1067 (2) purchase money mortgages;
 - 1068 (3) construction liens;
 - 1069 (4) environmental liens;
 - 1070 (5) liens that are filed or recorded before the child support lien becomes effective;
 - 1071 and
 - 1072 (6) any other lien given priority under the law.
- 1073 (d) Property subject to a lien includes personal property in which the obligor has a recorded
1074 ownership interest.
- 1075 (e) *Effect on a Good Faith Purchaser*. A child support lien is not effective against a good
1076 faith purchaser of titled personal property unless the lien is recorded on the title.
- 1077 (f) *Credit Bureau Reporting*. The Agency may report the total amount of an obligor's
1078 liens to the credit bureau, so long as the lien is fully enforceable and the case is not barred
1079 from credit bureau reporting.
- 1080 (g) *Agency Lien Responsibilities*. The Agency shall be responsible for:
- 1081 (1) updating the lien docket periodically;
 - 1082 (2) providing a copy of the lien docket to the appropriate register of deeds;
 - 1083 (3) responding to inquiries concerning information recorded on the lien docket;
 - 1084 (4) ensuring the satisfaction of a lien is recorded on the lien docket;
 - 1085 (5) renewing a lien if the lien amount equals or exceeds the lien threshold at the
1086 end of the five (5) year effective period;
 - 1087 (A) When a lien is renewed, the date on which the lien is renewed shall
1088 become the effective date of the lien, and a new five (5) year period shall
1089 commence.
 - 1090 (6) sending the obligor a notice when a lien has been renewed; and
 - 1091 (7) developing procedures for releasing a lien and releasing specific property from
1092 a lien.
- 1093 (h) *Financial Record Review*.
- 1094 (1) An obligor may request a financial record review in writing to the Agency
1095 within ten (10) business days of the date of notice of a lien, to determine the
1096 correctness of the financial records in a case.
 - 1097 (2) Upon receiving a request for a financial record review, the Agency shall, at no
1098 charge to the obligor, provide the obligor with:
 - 1099 (A) all relevant financial records;
 - 1100 (B) information explaining how to interpret the records; and
 - 1101 (C) a form the obligor may use to identify any alleged errors in the records.
 - 1102 (3) Within twenty (20) days after receiving the relevant financial records, the
1103 obligor may:
 - 1104 (A) request a meeting with the Agency to review the financial records and
1105 to discuss any alleged errors; and/or
 - 1106 (B) provide a statement of alleged error on the documents.
 - 1107 (i) The Agency shall review the records to determine whether the
1108 alleged error is correct and provide a written determination within
1109 sixty (60) days after the obligor's request for a financial record
1110 review is received as to whether the lien against the obligor is in the
1111 correct amount.

- 1112 (4) The Agency may proceed with the lien if:
1113 (A) the obligor does not request a meeting with the Agency or provide a
1114 statement of alleged error within twenty (20) days after receiving the
1115 financial records;
1116 (B) no errors are found in the financial records of the case; or
1117 (C) the arrears exceed the required threshold amount after any errors in the
1118 financial records are corrected.

1119 704.15-3. *Seizure of Property.* The Agency shall have the authority to seize property, whether an
1120 account or personal property, of an obligor. The Agency shall presume that an obligor's equity or
1121 ownership in the property is an equal pro-rata share of the equity or ownership based on the number
1122 of individuals with a recorded ownership interest in the property.

1123 (a) *Account Seizure.* Once a lien is placed against an obligor, the Agency may initiate an
1124 account seizure if the lien amount in the obligor's case equals or exceeds three hundred
1125 percent (300%) of the monthly amount due in the order, or one thousand dollars (\$1,000),
1126 whichever is greater.

1127 (1) The Agency may not issue a notice of seizure unless the sum of the funds in all
1128 of the obligor's financial accounts, minus expected seizure fees and any early
1129 withdrawal penalty, exceeds five hundred dollars (\$500). The first five hundred
1130 dollars (\$500) of each account shall not be frozen and/or seized.

1131 (2) The notice issued by the Agency shall instruct the financial institution of the
1132 following:

1133 (A) The maximum amount frozen in an account may not exceed the amount
1134 specified by the Agency in the notice.

1135 (B) The maximum amount frozen in an account may not exceed the
1136 obligor's ownership interest.

1137 (C) A financial institution is not liable for encumbering or surrendering any
1138 assets held by the financial institution in response to instructions from the
1139 Agency for the purpose of enforcing a child support order.

1140 (b) *Seizure of Personal Property.* Once a lien is placed against an obligor, the Agency
1141 may initiate the seizure of personal property if the lien amount equals or exceeds six
1142 hundred percent (600%) of the monthly amount due in the order.

1143 (1) The Agency may seize personal property if the obligor's equity in the property,
1144 minus expected seizure fees, exceeds five hundred dollars (\$500) per item total.

1145 (2) Ceremonial or religious property and/or real property are exempt and shall not
1146 be seized by the Agency.

1147 (3) *Process for Seizing Property.* The Agency shall follow the following process
1148 for seizing personal property:

1149 (A) The Agency shall notify the obligor of the intent to request the Family
1150 Court to issue an order of execution for the seizure of property.

1151 (B) The Agency shall request the Family Court to grant a written order of
1152 execution for the seizure of property. The Agency shall provide the Family
1153 Court an affidavit that notice of this request has been provided to the
1154 obligor.

1155 (C) Upon issuance of a written order of execution by the Family Court,
1156 non-exempt personal property may be seized and sold in a reasonable
1157 manner.

1158 704.15-4. *Attachment of Per Capita Payments.* The Agency may initiate the attachment and/or
1159 seizure of per capita payments of members of the Nation in accordance with applicable laws of the
1160 Nation.

1161 704.15-5. *License Suspension.* The Agency may initiate the suspension or denial of both State
1162 and Oneida issued licenses if there is a lien against an obligor that equals or exceeds three hundred
1163 percent (300%) of the monthly amount due in the child support order, or one thousand dollars
1164 (\$1000), whichever is greater.

1165 (a) The types of State or Oneida issued licenses that the Agency may initiate the suspension
1166 or denial of include, but are not limited to, vendor, professional, occupational, hunting,
1167 fishing, recreational, and/or motor vehicle licenses.

1168 (b) The Agency shall not initiate the suspension of an occupational and/or motor vehicle
1169 license if:

1170 (1) there is an order in place that prohibits the suspension of the license;

1171 (2) the obligor has filed for bankruptcy; or

1172 (3) action has already been taken to suspend the license.

1173 (c) When an Oneida-issued license is suspended, that suspension shall be binding on and
1174 given effect by the license issuing agencies. Orders affecting licenses issued by other
1175 governmental agencies shall be sent to such agencies for enforcement.

1176 704.15-6. *Lump-Sum Pension Payments, Judgments, and Settlements Intercepts.* Once an obligor
1177 has been placed on the lien docket the Agency may initiate the intercept of lump-sum pension
1178 payments, judgments and/or settlements.

1179 (a) When initiating the intercept of lump-sum pension payments, judgments and/or
1180 settlements, the Agency shall specify in the notice that the amount withheld from the lump-
1181 sum pension payment, judgment or settlement may not exceed the obligor's ownership
1182 interest in the payment.

1183 704.15-7. *Tax and Lottery Intercepts.* The Agency may coordinate with a federal or state agency
1184 in order to enforce a child support order through a tax and/or lottery intercept. Once an obligor
1185 has been notified that his or her tax refund and/or lottery winnings may be intercepted, that notice
1186 is valid until all arrears are paid in full.

1187 (a) *Federal Tax Intercept.* The Agency may certify a federal tax intercept when the
1188 requirements pertaining to federal tax intercept contained in an agreement between the
1189 State and the Nation have been met.

1190 (b) *Wisconsin State Tax and/or Lottery Intercept.* The Agency may certify a Wisconsin
1191 state tax intercept and/or a Wisconsin state lottery intercept, when the lottery winnings are
1192 one thousand dollars (\$1,000) or more, when the following requirements are met:

1193 (1) The arrears shall be at least one hundred and fifty dollars (\$150);

1194 (2) The arrears shall be at least thirty (30) days old; and

1195 (3) The arrears shall be for a minor child or a child who has reached the age of
1196 eighteen (18) within the last twenty (20) year.

1197 704.15-8. *Passport Denial.* If a federal tax intercept is in place and the obligor owes two thousand
1198 five hundred dollars (\$2,500) or more in arrears, an obligor may be denied a passport. The arrears
1199 must meet the criteria for federal tax intercept in order for passport denial to be used as an
1200 enforcement tool. An obligor shall be removed from the passport denial list if:

1201 (a) The federal tax intercept certification amount is zero (0);

1202 (b) The obligor makes a lump-sum payment and/or negotiates a payment plan with the
1203 Agency;

1204 (c) The obligor has to travel abroad because of a life-or-death situation involving an
1205 immediate family member; or

1206 (d) The obligor was denied a passport in error.
1207

1208 **704.16. Family Court Enforcement Action**

1209 704.16-1. If the Agency does not have the authority to conduct the appropriate enforcement action,
1210 or the obligor is unresponsive to the enforcement actions being imposed by the Agency, the case
1211 shall be referred to the Family Court for enforcement. The Family Court may order any of the
1212 enforcement actions the Agency is authorized to implement, in addition to the enforcement actions
1213 described in this section.

1214 704.16-2. *Bonds and Other Guarantees.* The Family Court may require an obligor to provide a
1215 surety, bond or guarantee to secure the payment of arrears, if income withholding is not applicable,
1216 practical, or feasible to secure payment of arrears.

1217 704.16-3. *Claims Against Estates.* The Family Court may approve a claim for past and future
1218 support against an obligor's estate. The Family Court may issue a restraining order against an
1219 estate from which an obligor will inherit.

1220 704.16-4. *Contempt.* The Family Court may hold an obligor who fails to comply with a lawful
1221 child support order in contempt. An obligor found to be in contempt shall be subject to the
1222 following punishments:

1223 (a) *Community Service.* The Family Court may order an obligor to perform community
1224 service. The number of hours of work required may not exceed what would be reasonable
1225 considering the amount of arrears the obligor owes. The obligor shall be provided a written
1226 statement of the terms of the community service order and that the community service order
1227 is monitored. The order shall specify:

- 1228 (1) how many hours of community service the obligor is required to complete;
1229 (2) the time frame in which the hours must be completed;
1230 (3) how the obligor will report his or her hours; and
1231 (4) any other information the Family Court determines is relevant.

1232 (b) *Fines.* An obligor found in contempt of court may be fined in an amount not to exceed
1233 one thousand dollars (\$1,000.00) per act of contempt and may not exceed five thousand
1234 dollars (\$5,000.00) in total. In instances of continuing contempt, each day shall constitute
1235 a separate act of contempt.

1236 (c) *Incarceration.* The Family Court may order an obligor be incarcerated. Before a jail
1237 sentence is imposed, the Family Court shall provide other conditions that require a certain
1238 amount of money be paid or action be taken for an obligor to avoid incarceration.

1239 (d) *Criminal Non-Support.* A criminal non-support action may be initiated, in the
1240 appropriate county, against an obligor who has the ability to pay child support and willfully
1241 or intentionally failed to pay and the obligor knew or reasonably should have known he or
1242 she was legally obligated to provide.
1243

1244 **704.17. Full Faith and Credit for Foreign Child Support Orders**

1245 704.17-1. Child support orders, judgments, or decrees of other federally recognized tribes, and
1246 states that relate to child support shall be recognized and modified in accordance with the
1247 requirements under the Full Faith and Credit for Child Support Orders Act, 28 U.S.C. 1738B.

1248 704.17-2. A foreign order is authenticated by reasonable proof that the document tendered to the
1249 Family Court is a true certified copy of the foreign order as it is recorded in the agency or court of
1250 the issuing jurisdiction. An authentication stamp issued by a court clerk or custodian of records,
1251 or a court seal, is sufficient evidence of authenticity.

1252 704.17-3. Unless defects in jurisdiction are apparent on the face of the foreign order, the person
1253 contesting enforcement of the order has the burden of showing the order is not valid. Upon a
1254 failure to respond to notice of the order and to timely contest it, the Family Court shall enforce it
1255 as an order of the Family Court.

1256 704.17-4. If a foreign order is brought before the Family Court solely for an interpretation of the
1257 terms of the order, and the order has been recognized and given full faith and credit by the Family
1258 Court, the Family Court shall interpret the order by applying the law of the forum that issued the
1259 foreign order.

1260

1261 **704.18. Right of Appeal**

1262 704.18-1. *Appeals of Administrative Enforcement Action.* Any enforcement action implemented
1263 by the Agency may be appealed to the Family Court within thirty (30) calendar days after the date
1264 that the action is enforced. The decision of the Family Court as to the Agency’s administrative
1265 enforcement action shall be final and non-appealable.

1266 704.18-2. *Appeals of Family Court Decisions.* A party may appeal a Family Court decision, other
1267 than the decision of the Family Court in regard to administrative enforcement action as referenced
1268 in section 704.18-1, to the Nation’s Court of Appeals within thirty (30) calendar days after the date
1269 the Family Court made the decision. The review of the Court of Appeals shall be based on the
1270 record and the original decision of the Family Court.

1271

1272 *End.*

1273 Emergency Adopted - BC-06-30-08-C (Expired)

1274 Emergency Extended – BC-12-10-08-H (Expired)

1275 Permanently Adopted- BC-06-24-09-B

1276 Emergency Amended - BC-10-28-09-E

1277 Amended - BC-02-24-10-G

1278 Amended - BC-06-22-11-K

1279 Amended - BC-10-10-12-C

1280 Amended – BC-08-13-14-E

1281 Amended – BC-__-__-__-__

1282



Legislative Operating Committee
September 18, 2019

Oneida Police Commission Bylaws Amendments

Submission Date: 10/03/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *On September 26, 2018, the Oneida Business Committee (“OBC”) adopted the Boards, Committees and Commissions law (“Law”) through resolution BC-09-26-18-C, titled Amendments to the Comprehensive Policy Governing Boards, Committees and Commissions. Per Section 105.10 of the Law, within a reasonable time after its adoption, all existing boards, committees and commissions of the Nation must present bylaws for adoption that comply with the format and contain the minimal amount of information prescribed in the Law. In resolution BC-09-26-18-C, the OBC gave the Nation’s boards, committees and commissions six (6) months from the date of the Law’s adoption to present their bylaws. The OBC further directed that, within thirty (30) days of the Law’s adoption, the Legislative Reference Office hold at least two (2) informational bylaws meetings with the boards, committees and commissions for purposes of: (1) providing them with an update on the revised bylaws requirements that resulted from the Law’s adoption; (2) providing them with a template for the development of their revised bylaws; and (3) offering them any assistance in the development and drafting of their revised bylaws.*

10/3/18 LOC: Motion by Ernest Stevens III to add Oneida Police Commission By-Laws Amendments to the Active Files List; Seconded by Kirby Metoxen. Motion carried unanimously.

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brook Doxtator (OBSCU), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (OTEC/Library), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a the Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the

boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Powwow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elms (SEOTS), Diane Hill (SEOTS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a the Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation's boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

1/31/19: *LOC Work Meeting.* Present: Kristen M. Hooker, Maureen Perkins, Jennifer Falck, David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman-King. The purpose of this meeting was to discuss the progress, in general, of the Nation's boards, committees and commissions on getting their bylaws amended and their likelihood of meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to have the LOC draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards, committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

Further, the purpose of this meeting was to go through the draft of the Oneida Police Commission's proposed bylaws amendments that were finalized following a review by the LRO Staff Attorney and submitted for a legislative analysis in accordance with the Boards, Committees and Commissions law/adopting resolution BC-09-26-18-C.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee seeking an extension of the March 26, 2019 bylaws amendments deadline and to forward the memorandum to the Oneida Business Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda for consideration; Seconded by Kirby Metoxen. Motion carried.

2/22/19: *OBC Work Session.* Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions By-Laws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting, the LRO Staff Attorney assigned this item provided a status update on the

progress of the boards, committees and commissions on the amending of their bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work session to provide a progress report on the boards, committees and commissions' bylaws amendments.

3/4/19 LOC: Motion by Daniel Guzman King to accept the Oneida Police Commission Bylaws Amendments and forward to the Oneida Business Committee for consideration; seconded by Ernest Stevens. Motion carried unanimously.

3/13/19 OBC: Motion by Lisa Summers to defer the Oneida Police Commission bylaws to the BC liaison to the Oneida Police Commissions for follow-up to be done with the Oneida Police Commission and the Legislative Reference Office on the revisions and that a revised draft of the bylaws will be brought back to the April 10, 2019, regular Business Committee meeting for consideration; Seconded by Trish King. Motion carried.

Motion by Lisa Summers to request that the BC liaison to the Oneida Police Commission work with the Oneida Police Commission on a transition plan for the current staff and to bring back an update in six (6) months; Seconded by Ernest Stevens III. Motion carried.

3/19/19: *OBC Work Session.* Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman-King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions on the amending of their bylaws to conform to the Boards, Committees and Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LRO to draft a memo for the next LOC meeting to be forwarded to the OBC indicating the same.

**During its subsequent review of the Oneida Gaming Commission's proposed bylaws amendments, the OBC decided to add the following requirements to all of the boards, committees and commissions' bylaws amendments: (1) that, the recommendations for termination be by a majority vote of the members in attendance at a meeting of the entity's established quorum; (2) that, notice of meetings be provided to all members of the entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual, and that, two (2) of the entity's Officers be required to sign-off on all such purchases; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) to allow members to be dismissed (not removed as initially proposed) from their Officer positions by a simple majority vote of the entity; (5) that, the entities review their bylaws each time a vacancy is filled by a new member; (6) that, stipend amounts not be listed in*

the entity's bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the joint meeting section of the entity's bylaws.

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

4/10/19 OBC: Motion by David P. Jordan to defer the Oneida Police Commission bylaws amendments to the Legislative Operating Committee; Seconded by Lisa Summers. Motion carried.

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernest Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments. During this meeting, the OBC also decided that all boards, committees and commissions must add the word "titled" next to the name of the purchasing manual they are required to reference in the "sign-off" section of their bylaws to provide clarification on why the term "Oneida Tribe of Indians" is being used instead of the "Nation".

5/1/19: *LOC Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation's boards, committees and commissions' bylaws amendments before the Oneida Business Committee for adoption.

7/29/19-7/30/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions' bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Oneida Police Commission Bylaws Amendments.
- Forward the Oneida Police Commission Bylaws Amendments to the Oneida Business Committee for consideration.

1
2 **ONEIDA POLICE COMMISSION BYLAWS**
3
4

5 **Article I. Authority**

6 1-1. *Name.* The name of this entity shall be the Oneida Police Commission and may be referred
7 to as the Police Commission.
8

9 1-2. *Establishment.* The Police Commission was established under the Oneida Nation Law Enforcement
10 Ordinance, adopted by the Oneida Business Committee through resolution BC-10-
11 10-01-C and amended by resolution BC-02-25-15-C.
12

13 1-3. *Authority.*

14 (a) *Purpose of Entity.* The purpose of the Police Commission is to regulate the conduct
15 of the Oneida Nation law enforcement personnel according to the highest
16 professional standards. The Police Commission was established to provide oversight
17 regarding the activities and actions of the law enforcement operations to provide the
18 greatest possible professional services to the Oneida community and to allow for
19 community input regarding those law enforcement services through its
20 representatives on the Police Commission. The Police Commission is an oversight
21 body and does not involve decision making processes on day-to-day activities of
22 those law enforcement services.

23 (b) *Powers and Duties.* The Police Commission has all delegated authority established
24 through the laws, policies, rules and resolutions of the Nation, including but not
25 limited to, the Oneida Nation Law Enforcement Ordinance.
26

27 1-4. *Office.* The official mailing address of the Police Commission shall be:
28 Oneida Police Commission
29 P.O. Box 365
30 Oneida, WI 54155
31

32 1-5. *Membership.*

33 (a) *Number of Members.* The Police Commission shall consist of five (5) members.

34 (b) *Appointed.* All members of the Police Commission shall be appointed in accordance
35 with the Boards, Committees and Commissions law to serve a five (5) year term.

36 (1) Members of the Police Commission may serve more than one (1) term, but
37 not more than three (3) consecutive terms.

38 (2) Members of the Police Commission shall remain in office:

39 (A) If his or her term has expired, until a successor has been sworn in by
40 the Oneida Business Committee;

41 (B) Until his or her appointment is terminated; or

42 (C) Until his or her resignation.

43 (i) A member may resign at any time verbally at a meeting or by
44 delivering written notice to the Oneida Business Committee
45 Support Office and the Police Commission Chairperson or
46 Chairperson's designee. The resignation is effective upon
47 acceptance by motion of a member's verbal resignation or
48 upon delivery of the written notices.

- 49 (c) *Vacancies.* Vacancies on the Police Commission shall be filled by appointment by
50 the Oneida Business Committee in accordance with the Boards, Committees and
51 Commissions law.
- 52 (1) The Chairperson of the Police Commission shall provide the Oneida Business
53 Committee with a recommendation on all applications for appointment to fill
54 a vacancy by the executive session in which the appointment is intended to
55 be made.
- 56 (A) The Chairperson shall include in the recommendation whether the
57 applicant meets the qualifications set forth in these bylaws.
- 58 (2) For vacancies in unexpired terms, a replacement member shall hold office
59 through the unexpired portion of the term of the member whom he or she has
60 replaced.
- 61 (d) *Qualifications.* All Police Commission members:
- 62 (1) Must be an enrolled member of the Oneida Nation.
- 63 (2) Must be twenty-five (25) years of age or older.
- 64 (3) Must submit to a complete background investigation. The following would
65 disqualify any person from serving on the Oneida Police Commission:
- 66 (A) A felony conviction in the State of Wisconsin or any conviction of a
67 crime in another state that would be considered a felony conviction if
68 the offense and adjudication occurred in the State of Wisconsin.
- 69 (B) A felony arrest which results in a misdemeanor conviction due to a
70 plea arrangement.
- 71 (C) A conviction of any ordinance violation that could bring discredit to
72 the Police Commission, including, but not limited to:
- 73 (i) Domestic Abuse; or
- 74 (ii) Child Abuse.
- 75 (D) Any pardon issued by the Nation or the governor of any state for an
76 offense specified above shall not deem a person as “exonerated” for
77 the purposes of membership on the Police Commission.
- 78 (4) Must submit to drug testing prior to appointment and on an annual basis.
- 79 (5) Must not be an employee of the Oneida Police Department or have been
80 terminated from the Oneida Police Department.
- 81 (6) Must be a person of known good standing in the community.
- 82 (e) *Duties/Responsibilities.*
- 83 (1) Members shall attend regular Police Commission meetings, emergency
84 meetings, trainings and conferences as directed by the Police Commission.
- 85 (2) Members shall provide direction; participate in discussion; review Police
86 Commission reports and minutes prior to the meetings; and perform other
87 duties assigned by the Police Commission.
- 88 (3) *Attendance.* The Police Commission has high expectations when it comes to
89 attendance; therefore, attendance will be closely monitored.
- 90 (A) Six (6) excused absences of a member from any duly called meeting
91 of the Police Commission within a one (1) year period may be cause
92 for a recommendation by the Police Commission to the Oneida
93 Business Committee for termination of that member’s appointment in
94 accordance with section 1-6 of these bylaws.
- 95 (B) Four (4) unexcused absences of a member from any duly called
96 meeting of the Police Commission within a one (1) year period may

97 be cause for a recommendation by the Police Commission to the
98 Oneida Business Committee for termination of that member's
99 appointment in accordance with section 1-6 of these bylaws.

100 (i) A member who fails to provide written notice of his or her
101 pending absence to a Police Commission Officer at least thirty
102 (30) minutes before the start of the duly called missed meeting
103 of the Police Commission shall be deemed unexcused.

104 (4) Members shall perform all other responsibilities assigned under the Oneida
105 Law Enforcement Ordinance, including, but not limited to:

106 (A) Appointing, suspending or removing the Police Chief of the Oneida
107 Police Department;

108 (B) Approving all law enforcement officer appointments made by the
109 Police Chief including the promotion of subordinates;

110 (C) Adopting, modifying and repealing rules governing how lists of
111 individuals, deemed eligible for appointment to law enforcement
112 officer and promotion, are established;

113 (D) Approving competitive examinations used to judge suitability for
114 appointment or promotion of law enforcement officers;

115 (E) Approving an eligibility list of individuals determined to be eligible
116 for appointment as a law enforcement officer or promotion;

117 (F) Suspending law enforcement officers or other appointed personnel of
118 the Oneida Police Department pending the filing and hearing of
119 charges against them;

120 (G) Initiating charges against law enforcement officers or other appointed
121 personnel of the Oneida Police Department;

122 (H) Hearing charges filed against law enforcement officers or other
123 appointed personnel of the Oneida Police Department, whether filed
124 by the Police Commission or the Police Chief, making findings and
125 determinations, and imposing penalties up to and including
126 termination;

127 (I) Hearing appeals of disciplinary actions against any law enforcement
128 personnel or non-sworn personnel;

129 (J) Adopting rules governing the Police Commission's management of
130 its own activities;

131 (K) Reviewing and forwarding for approval contracts to the Oneida
132 Business Committee relating to cross-deputization, dispatch function
133 and mutual aid pacts which are made between the Oneida Police
134 Department and a non-tribal agency; and

135 (L) Approving Standard Operating Procedures of the Oneida Police
136 Department.

137
138 1-6. *Termination.* A member of the Police Commission may be terminated in accordance with the
139 Boards, Committees and Commissions law.

140 (a) The Police Commission may recommend termination of a member from the Police
141 Commission to the Oneida Business Committee for the following:

142 (1) Misconduct or wrong doing as a member of the Police Commission;

143 (2) Conduct which could jeopardize the reputation of the Oneida Nation, the
144 Police Commission or the law enforcement system;

- 145 (3) Any change in status which would place the member of the Police
146 Commission in conflict with the qualifications for membership set forth in
147 these bylaws;
148 (4) Violation of the confidentiality of closed hearings or any other information
149 declared “confidential” by the Police Commission; and
150 (5) A disclosure of confidential information acquired by reason of a member’s
151 relationship or status with the Police Commission for personal advantage,
152 gain or profit, or for the advantage, gain or profit of a member’s relative or
153 associate.
154 (b) Recommendations to the Oneida Business Committee for termination of a Police
155 Commission member’s appointment must be determined by a majority vote of the
156 members in attendance at a Police Commission meeting of an established quorum.
157

158 1-7. *Trainings and Conferences.*

- 159 (a) Contingent upon funding, the following trainings/conferences shall be mandatory for
160 members of the Police Commission to attend when directed by majority vote of the
161 members in attendance at a Police Commission meeting of an established quorum:
162 (1) 1-4 HRD training to save on any travel;
163 (2) Investigation Case Management;
164 (3) National Alliance for Drug Endangered Children;
165 (4) Legal Responsibilities;
166 (5) Protecting Due Process;
167 (6) Confidentiality and Reporting;
168 (7) Disciplinary Measures;
169 (8) Report Writing;
170 (9) Ethics;
171 (10) Hearings;
172 (11) Gangs;
173 (12) Youth Interaction;
174 (13) Suicide;
175 (14) School Threats;
176 (15) First Responders;
177 (16) Evidence Processing;
178 (17) Drug Related Death;
179 (18) Interviews and Child Death;
180 (19) Crime Scene;
181 (20) Unresolved Cases;
182 (21) Prosecution and Role of the Prosecutor;
183 (22) Media Relations;
184 (23) Cultural Differences to Build Stronger Communities;
185 (24) Terrorism & Police Measures;
186 (25) Victim Assistance;
187 (26) Shared Jurisdiction;
188 (27) Consent Searches;
189 (28) Substance Abuse Prevention;
190 (29) Case Study;
191 (30) Trauma;
192 (31) UWSP Outreach Annual Crisis Conference;

- (32) UWGB Training; and
- (33) UW – Fox Valley Training.

(b) Reimbursement for conferences and trainings shall be subject to the Boards, Committees and Commissions law and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards, Committees and Commissions Law Stipends, as may be further amended from time-to-time hereafter.

- (1) Regardless of the number of trainings/conferences that he or she is required to attend, no member of the Police Commission shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.

Article II. Officers

2-1. *Officers.* The Officer positions of the Police Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson are as follows:

- (a) Shall, with the assistance of the Secretary, be responsible for calling meetings and notifying members of the Police Commission, as well as the public, in accordance with governing law, including, but not limited to, the Nation’s Open Records and Open Meetings law;
- (b) Shall preside over all meetings and hearings of the Police Commission;
- (c) Shall sign or designate one to sign all official Police Commission documents;
- (d) Shall be the liaison to the Oneida Business Committee and other department heads;
- (e) Shall seek clearance from the Oneida Business Committee via the Communications Department for any media requests made of the Police Commission per the Communications Department Media Policy;
- (f) Shall perform any and all duties assigned by the Police Commission;
- (g) Shall submit the recommendations for appointment referred to in section 1-5 and conduct the e-polls referred to section 3-6 of these bylaws; and
- (h) Shall, with assistance of the Secretary or through a designee of the Chairperson, submit annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, as required by the Boards, Committees and Commissions law, and shall attend all Oneida Business Committee meetings in which the Police Commission’s quarterly report is an agenda item.

2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the Vice-Chairperson are as follows:

- (a) Shall preside at all meetings in the absence of the Chairperson and appoint a Vice-Chairperson for that meeting;
- (b) Shall be responsible for conducting e-polls in the absence of the Chairperson;
- (c) Shall work with the Chairperson in all matters that concern the Police Commission; and
- (d) In the event of the resignation, dismissal from office or death of the Chairperson, shall assume the role of Chairperson until such time as the Chairperson’s term would have expired.

- 240 2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the Secretary are as
241 follows:
- 242 (a) Shall keep accurate minutes of all regular, emergency and joint meetings, assuring
243 that the minutes are reported in proper format and consistent with the Boards,
244 Committees and Commissions law;
 - 245 (b) Shall assist the Chairperson with the calling and notification of meetings, consistent
246 with section 2-2 of these bylaws, and the submission of the annual, semi-annual and
247 quarterly reports required by the Boards, Committees and Commissions law;
 - 248 (c) Shall ensure that all standard operating procedures established by the Police
249 Commission are submitted to the Oneida Business Committee Support Office; and
 - 250 (d) In the event that both the Chairperson and the Vice-Chairperson positions become
251 vacant before the end of their terms, shall call meetings of the Police Commission to
252 fill the vacancies and preside over those meetings for the sole purpose of conducting
253 an election of new Officers, at which point the Chairperson, or Vice-Chairperson in
254 the absence of the Chairperson, shall preside.
- 255
- 256 2-5. *Selection of Officers.* The Officers shall serve terms of one (1) year and shall be elected by a majority
257 vote of the Police Commission members in attendance at the annual meeting of an
258 established quorum, which shall be held in September of each year.
- 259 (a) Terms of office run from the beginning of the fiscal year.
 - 260 (b) Officers may hold only one (1) Officer position per Officer term.
 - 261 (c) Members of the Police Commission may be dismissed from their Officer positions
262 by majority vote of the members in attendance at a Police Commission meeting of
263 an established quorum.
- 264
- 265 2-6. *Budgetary Sign-Off Authority and Travel.* The Police Commission shall follow the Nation's policies
266 and procedures regarding purchasing and sign-off authority.
- 267 (a) Levels of budgetary sign-off authority for the Police Commission shall be as set forth
268 in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies and*
269 *Procedures*, for Area Directors/Enterprise Directors.
 - 270 (1) All Officers of the Police Commission shall have sign-off authority.
 - 271 (2) Two (2) Police Commission Officers shall be required to sign-off on all
272 budgetary requests.
 - 273 (b) Travel requests on behalf of the Police Commission shall be approved by majority
274 vote of the members in attendance at a regular or emergency Police Commission
275 meeting of an established quorum.
- 276
- 277 2-7. *Personnel.* From the date these bylaws are adopted by the Oneida Business Committee and
278 moving forward, the Police Commission shall not have authority to hire personnel
279 for the benefit of the Police Commission.
- 280

281 **Article III. Meetings**

- 282 3-1. *Regular Meetings.* Regular meetings of the Police Commission shall be held every fourth (4th)
283 Wednesday of the month, commencing at 5:00 p.m., at the Ridgeview Plaza located
284 in Oneida, Wisconsin. If the fourth (4th) Wednesday of the month falls on a holiday,
285 then an alternative date may be selected by the Police Commission in accordance
286 with these bylaws.

- 287 (a) The meeting date, time and location shall be reviewed at the first meeting of the
288 Police Commission and may change from time-to-time as it so determines upon
289 proper notice to all Police Commission members, in writing, and to the public in
290 accordance with governing law prior to the implementation of the new date, time
291 and/or location.
292 (1) Meeting locations shall be within the Oneida Nation Reservation boundaries
293 unless all the membership, as well as the public, is given proper notice,
294 consistent with governing law, prior to designating the meeting location.
295 (b) Notice of meeting location, agenda, documents and minutes shall be forwarded by
296 the Chairperson with the assistance of the Executive Administrator or Secretary, to
297 all members of the Police Commission, in writing, and to the public in accordance
298 with governing law, including, but not limited to, the Nation's Open Records and
299 Open Meetings law.
300 (c) *Interview meetings.* Additional meetings for the purpose of the applicant interviews
301 for Police Chief or law enforcement officers may be called by the Chairperson with
302 approval of a majority of the members making up at least a quorum and so long as
303 notice is provided to all members, in writing, and to the public in accordance with
304 governing law, including, but not limited to, the Nation's Open Records and Open
305 Meetings law.
306

307 3-2. *Emergency Meetings.*

- 308 (a) An emergency meeting shall be called to address specific issues of the Police
309 Commission that will be identified in the notice for the meeting when time sensitive
310 issues require immediate action.
311 (1) Emergency meetings shall require at least a twenty-four (24) hour advance
312 notice, in writing and by telephone call, to each member of the Police
313 Commission by the Chairperson or the Chairperson's designee and shall
314 further require notice to all Police Commission members, as well as the
315 public, in accordance with governing law, including, but not limited to, the
316 Nation's Open Records and Open Meetings law.
317 (2) Notice of an emergency meeting that is provided via email must be sent to
318 the official Oneida Nation email address that was provided to each member
319 to conduct Police Commission business electronically.
320 (b) Within seventy-two (72) hours after an emergency meeting, the Police Commission
321 shall provide the Nation's Secretary with notice of the emergency meeting, the reason
322 for the emergency meeting, and an explanation of why the matter could not wait for
323 a regular meeting.
324

325 3-3. *Joint Meetings.* Joint meetings with the Oneida Business Committee may be held at the Norbert
326 Hill Center, Business Committee Conference Room, upon the request of either party
327 and the agreement of the Oneida Business Committee.

- 328 (a) Notice of the joint meeting agenda, documents and minutes shall be provided, and
329 the joint meeting conducted, in accordance with resolution BC-03-27-19-D titled,
330 Oneida Business Committee and Joint Meetings with Boards, Committees and
331 Commissions – Definitions and Impact, as may be amended from time-to-time
332 hereafter.
333

334 3-4. *Quorum.* A quorum shall consist of three (3) members, one (1) of which shall include the
335 Chairperson, Vice-Chairperson or Secretary, but only if the Secretary is presiding
336 over a meeting in accordance with section 2-4(d) of these bylaws.
337

338 3-5. *Order of Business.* The regular meetings of the Police Commission shall follow the order of business
339 as set out herein:

- 340 (a) Call to order
- 341 (b) Approval of the agenda
- 342 (c) Approval of the minutes
- 343 (d) Correction and approval of the minutes
- 344 (e) Correspondence and mail
- 345 (f) Standing and Special Committee Reports
- 346 (g) Old business
- 347 (h) New business
- 348 (i) Other
- 349 (j) Adjournment

350 (1) To facilitate the Police Commission’s proceedings, the order of business may
351 be amended or suspended at any time by a majority vote of the members in
352 attendance at a Police Commission meeting of an established quorum.

353 (2) *Executive Session.* During any meeting, with proper notice, an executive
354 session may be called by any single member of the Police Commission for
355 the purpose of a confidential nature. Executive sessions are limited to
356 members and such invited persons as the Police Commission deems
357 necessary. The meeting must be returned to “open session” following the
358 “executive session”.
359

360 3-6. *Voting.* Decisions of the Police Commission shall be based on a majority vote of the members
361 present at a regular or emergency Police Commission meeting of an established
362 quorum.

363 (a) The Chairperson or Officer presiding at the meeting in the Chairperson’s absence
364 shall vote only in the case of a tie.

365 (b) E-Polls are permitted and shall be conducted in accordance with the requirements
366 listed in the Boards, Committees and Commissions law.

367 (1) In the Chairperson’s absence, the Vice-Chairperson shall serve as the
368 designee for conducting e-polls.
369

370 **Article IV. Expectations**

371 4-1. *Behaviors of Members.* Members of the Police Commission shall act in accordance with the Oneida
372 Code of Ethics.

373 (a) *Enforcement.* Any member of the Police Commission found to be in violation of
374 these bylaws or any other laws of the Nation may be subject to a recommendation
375 from the Police Commission to the Oneida Business Committee for termination of
376 that member in accordance with the Boards, Committees and Commissions law
377 and/or the imposition of sanctions and/or penalties according to the laws and policies
378 of the Nation governing sanctions and penalties for appointed officials.

379 (1) Recommendations to the Oneida Business Committee for termination of a
380 Police Commission member’s appointment must be determined by a majority

- 381 vote of the members in attendance at a Police Commission meeting of an
382 established quorum.
- 383
- 384 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the Police
385 Commission that inflicts, attempts to inflict, or threatens to inflict emotional or
386 bodily harm on another person, or damage to property, during a meeting or when
387 acting in an official capacity are strictly prohibited and grounds for an immediate
388 recommendation for termination of appointment from the Police Commission and/or
389 the imposition of sanctions and/or penalties according to the laws and policies of the
390 Nation governing sanctions and penalties for appointed officials as determined by a
391 majority vote of the members in attendance at a Police Commission meeting of an
392 established quorum.
- 393
- 394 4-3. *Drug and Alcohol Use.* Use of alcohol and prohibited drugs by members of the Police Commission
395 when acting in their official capacity is strictly prohibited.
- 396 (a) Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines,
397 phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any
398 other substances included in Schedules I through V, as defined by Section 812 of
399 Title 21 of the United States Code. This also includes prescription medication or
400 over-the-counter medicine used in an unauthorized or unlawful manner.
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- 402 4-4. *Social Media.* Police Commission members shall abide by the Nation’s Social Media Policy and
403 their oath of office when using social media while acting on behalf of or as a
404 representative of the Police Commission.
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- 406 4-5. *Conflict of Interest.* Police Commission members shall abide by all laws of the Nation governing
407 conflicts of interest. Members must submit a Conflict of Interest form upon taking
408 their oath of office and annually thereafter.
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410 **Article V. Stipends and Compensation**

- 411 5-1. *Stipends.* Police Commission members are eligible for the following stipends as set forth in
412 and subject to these bylaws, the Boards, Committees and Commissions law, and
413 resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards,
414 Committees and Commissions Law Stipends, as may be further amended from time-
415 to-time hereafter:
- 416 (a) A stipend for attending a duly called meeting of the Police Commission for up to one
417 (1) meeting per month.
- 418 (b) A stipend for attending a hearing of the Oneida Judiciary if the member’s attendance
419 at the hearing is required by official subpoena.
- 420 (c) A stipend for conducting an official hearing of the Police Commission.
- 421 (d) A stipend for attending a duly called joint meeting between the Police Commission
422 and the Oneida Business Committee.
- 423 (e) A stipend for each full day a member is present at a conference or training when
424 attendance at the conference or training is required by law, bylaws or resolution.
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- 426 5-2. *Compensation.* Besides travel, per diem and business expense reimbursement authorized by the
427 Boards, Committees and Commissions law, members of the Police Commission shall

not be eligible for any other form of compensation for duties/activities they perform on behalf of the Police Commission.

Article VI. Records and Reporting

- 6.1. *Agenda Items.* Agenda items shall be maintained in the format provided by the Oneida Business Committee Support Office.
- 6-2. *Minutes.* Minutes shall be typed in the format provided by the Oneida Business Committee Support Office to generate the most informative record of the meetings of the Police Commission.
 - (a) All minutes shall be submitted to the Oneida Business Committee Support Office within thirty (30) calendar days of the Police Commission’s approval.
- 6-3. *Attachments.* Handouts, reports, memoranda and the like may be kept separately; provided, the materials can be identified to the meeting in which they were presented and shall be maintained in accordance with the Nation’s Open Records and Open Meetings law.
- 6-4. *Oneida Business Committee Liaison.* The Chairperson shall regularly report to the Oneida Business Committee member who is the Police Commission’s designated liaison.
 - (a) The reporting format and frequency for communication shall be as the liaison and the Police Commission agree to, but not less than that required in any law of the Nation or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council.
 - (b) Reports shall be made within a reasonable time after a meeting is held, or as the Oneida Business Committee member liaison and the Police Commission agree, provided that the agreement is aimed at upholding the ability of the liaison to act as a support to the Police Commission.
- 6-5. *Audio Recordings.* All meetings of the Police Commission shall be audio recorded using a recording device approved and/or supplied by the Oneida Business Committee Support Office. The audio recordings shall be sent to the Oneida Business Committee Support Office quarterly, for purposes of maintaining, when the minutes are approved by the Police Commission.
 - (a) Audio recordings of executive session portions of a meeting are not required.

Article VII. Amendments

- 7-1. *Amendments to the Bylaws.* Amendments may be made to these bylaws at a regular meeting of the Police Commission provided that written notice of the proposed amendments is given at a prior regular meeting and the amendments conform to the Boards, Committees and Commissions law, as well as any other policy of the Nation.
 - (a) Amendments are effective upon adoption of the Police Commission and approval by the Oneida Business Committee.
 - (b) The Police Commission shall review these bylaws from time to time as needed, but no less than on an annual basis.

474 These bylaws as amended and revised are hereby attested to as adopted by the Oneida Police Commission
475 at a duly called meeting by the Chairperson's signature on this ____ day of _____, 2019

476 _____
477 Chairperson, Oneida Police Commission

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479 and by approval of the Oneida Business Committee at a duly called meeting held on this _____ day of
480 _____, 2019 by the Secretary of the Oneida Business Committee's signature.

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484 Secretary, Oneida Business Committee

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Oneida Police Commission Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: David P. Jordan	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These amendments comply with the Oneida Business Committee (OBC) directive established by resolution BC-09-26-18-C that all boards, committees and commissions of the Nation; excluding the OBC or standing committees of the OBC and the Nation’s corporations, amend their bylaws to comply with the requirements established by the Boards, Committees and Commissions law. Additional information and requirements included in these bylaws beyond what is required in the Boards, Committees and Commissions law is not prohibited [<i>1 O.C. 105.10-1(b)</i>].		
Intent of the Bylaws	The bylaws provide a framework for the operation and management of the Oneida Police Commission (Police Commission) to govern the standard procedures regarding the way the Police Commission conducts its affairs, including: the appointment of persons to the Police Commission, the membership qualifications, duties and responsibilities of both members and Officers, terms and filling vacancies of members, selection of Officers, establishment of expectations of members, maintenance of official records, stipends, termination process, required training, and how the bylaws are amended.		
Purpose	The purpose of the Police Commission is to regulate the conduct of the Oneida Nation law enforcement personnel according to the highest professional standards. The Police Commission was established to provide oversight regarding the activities and actions of the law enforcement operations to provide the greatest possible professional services to the Oneida community and to allow for community input regarding those law enforcement services through its representatives on the Police Commission. The Police Commission is an oversight body and does not involve decision making processes on day-to-day activities of those law enforcement services [<i>Proposed Bylaws 1-3(a)</i>].		
Related Legislation	Oneida Nation Constitution, Oneida Nation Law Enforcement Ordinance, Boards, Committees and Commissions law, Conflict of Interest law, Code of Ethics law, Social Media Policy, Computer Resources Ordinance, Travel and Expense Policy, Open Records and Open Meetings law		
Enforcement/Due Process	A member of the Police Commission serves at the discretion of the OBC. Upon the recommendation of a member of the OBC or by majority vote of the Police Commission; the OBC may terminate a Police Commission’s appointment. A two-thirds majority vote of the OBC shall be required to terminate the appointment of a member. The OBC’s decision to terminate an appointment is final and not subject to appeal [<i>1 O.C. 105-7-4</i>].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

1 **SECTION 2. BACKGROUND**

- 2 A. The Police Commission bylaws amendments were added to the Active Files List on October 3, 2018,
3 with David P. Jordan as the sponsor.
4 B. The Police Commission is established by the Oneida Nation Law Enforcement Ordinance which
5 contains specific details related to the role and requirements of members of the Police Commission.
6 The Oneida Nation Law Enforcement Ordinance was adopted October 10, 2001, by Resolution BC-10-
7 10-01-C and amended by Resolution BC-02-25-15-C
8 C. The most recent bylaws were approved by the OBC on March 3, 2004.
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10 **SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW**

- 11 A. The bylaws comply with the Boards, Committees and Commissions law.
12 B. The bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-18-
13 D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
14 amounts and eligibility requirements of stipends.
15 C. The bylaws comply with OBC Resolution BC-03-27-19-D titled “Oneida Business Committee and
16 Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.
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18 **SECTION 4. AMENDMENTS**

19 This section details the changes to the bylaws from the previously adopted bylaws.

20 A. ARTICLE I. AUTHORITY

- 21 a. The authority section was expanded to include the purpose of the Police Commission
22 established in the Oneida Nation Law Enforcement Ordinance [*Proposed Bylaws 1-3*].
23 b. The membership section changed as follows:
24 • The reference to the Removal Law was removed [*Current Bylaws 1-4(d)*].
25 Members of the Police Commission are appointed by the OBC and the
26 termination of an appointment follows the Boards, Committees and
27 Commissions law [*Proposed Bylaws 1-6*] [*1 O.C. 105.7-4*].
28 • Clarification was added that a member may serve more than one term but not
29 more than three consecutive terms [*Proposed Bylaws 1-5(b)(1)*] in
30 accordance with the Oneida Nation Law Enforcement Ordinance [*3 O.C.*
31 *301.6-2*].
32 • A provision was added that members of the Police Commission will stay in
33 office until a successor has been sworn in by the OBC [*Proposed Bylaws 1-*
34 *5(b)(2)(A)*] which is optional under the Boards, Committees and Commissions
35 law [*1 O.C. 105.6-2(a)(1)*].
36 • The resignation process has changed in accordance with the Boards,
37 Committees and Commissions law [*1 O.C. 105.6-2(d)*]. Resignations are now
38 accepted:
39 ○ Verbally at a meeting and accepted by motion at a meeting; or
40 ○ By delivering a written resignation to the Business Committee Support
41 Office (BCSO) and the Police Commission’s Chairperson or
42 Chairperson’s designee [*Proposed Bylaws 1-5(b)(2)(C)(i)*].
43 • A provision was added that the Chairperson will make a recommendation to
44 fill vacancies on behalf of the Police Commission to the OBC that includes
45 verification that the applicant meets the qualifications set forth in these bylaws
46 [*Proposed Bylaws 1-5(c)(1)*]. This is optional in the Boards, Committees and
47 Commissions law [*1 O.C. 105. 7-1(b)(1)*].

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- Domestic abuse and child abuse were added as examples of convictions of ordinance violations that would prohibit a person from being appointed to the Police Commission [*Proposed Bylaws 1-5(d)(3)(C)*].
 - A requirement was added that anyone terminated from the Oneida Police Department is disqualified from membership on the Police Commission [*Proposed Bylaws 1-5(d)(5)*].
- c. A section detailing duties and responsibilities was added to the bylaws [*Proposed Bylaws 1-5(e)(3)*].
- Attendance requirements are established along with consequences for failure to abide by the requirements. A definition was added for unexcused absence which requires written notice to a Police Commission Officer at least thirty (30) minutes before the meeting that he or she will be absent from [*Proposed Bylaws 1-5(e)(3)(B)(i)*].
- d. A provision was added that recommendations to the OBC to terminate a Police Commission member's appointment must be made by a majority vote of the members in attendance at a Police Commission meeting with an established quorum [*Proposed Bylaws 1-6(b)*].
- e. A list of thirty-three (33) mandatory training and conferences was added that require a majority vote of the Police Commission to attend [*Proposed Bylaws 1-7(a)(1) to (33)*]. Police Commission members may be eligible for a training stipend upon available funding in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.13-8*]. Regardless of the number of trainings/conferences that a Police Commission member is required to attend; each Police Commission member is only eligible to receive stipends for no more than five (5) full days of mandatory trainings/conferences attended [*Proposed Bylaws 1-7(b)(1)*].

74 B. ARTICLE II. OFFICERS

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- a. The Officer positions were changed from President, Vice-President and Secretary/Treasurer to Chairperson, Vice-Chairperson and Secretary [*Proposed Bylaws 2-1*].
- Additional duties of the Chairperson include [*Proposed Bylaws 2-2*]:
 - A requirement to make recommendations for vacancies on behalf of the Police Commission to the OBC was added. This is optional under the Boards, Committees and Commissions law [*1 O.C. 105.7-1(b)(1)*];
 - A requirement to attend or designate a Police Commission member to attend OBC meetings where the quarterly report is on the agenda in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.12-3*]; and
 - Conducting e-polls [*Proposed Bylaws 2-2(g)*] with the Vice-Chairperson as the designee in the Chairperson's absence in compliance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(c)(6)(C) and (D)*] and [*1 O.C. 105.11*].
 - The financial reporting requirement was removed [*Current Bylaws 2-4*].
 - A provision was added that if both the Chairperson and the Vice-Chairperson positions become vacant before the end of their terms; the Secretary shall call and preside over a meeting until a new Chairperson and Vice-Chairperson is elected; at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside [*Proposed Bylaws 2-4(d)*]. In this instance the Secretary's presence can be used to constitute quorum [*Proposed Bylaws 3-4*].

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- b. Three provisions were removed from the current bylaws:
 - The financial reporting requirement [*Current Bylaws 2-4*];
 - The provision in the current bylaws related to an Officer not being able to serve more than two (2) consecutive terms [*Current Bylaws 2-5*]; and
 - Detail related to the successor being appointed to fill for the duration of the unexpired Officer term [*Current Bylaws 2-5*].
 - c. A provision was added that prevents a member from holding more than one Officer position at the same time on the Police Commission [*Proposed Bylaws 2-5(b)*].
 - d. A provision was added that an Officer may be dismissed from their position by a majority vote of the members in attendance at a Police Commission meeting with an established quorum [*Proposed Bylaws 2-5(c)*].
 - e. The budgetary and sign-off authority and travel section is new to these bylaws based on requirements in the Boards, Committees and Commissions law [*1 O.C. 105.10-3(b)(6)*].
 - The Police Commission will use levels for budgetary sign-off authority that are as set forth in the Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures Manual for Area Directors/Enterprise Directors. All Police Commission Officers shall have sign-off authority and two (2) Officers must sign-off on budgetary requests, including stipends and expenses [*Proposed Bylaws 2-6(b)(1) and 2-6(b)(2)*].
 - i. Although not applicable to the Police Commission; the Police Commission will follow the budgetary sign-off levels dictated by the Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures Manual for Area Directors/Enterprise Directors, page 217, which includes the following levels of sign-off authority:
 1. Budgeted items with three bids for items between \$3,000 and \$10,000;
 2. Unbudgeted items between \$1,000 and \$5,000; and
 3. Budgeted but sole source items between \$1,000 and \$5,000.
 - All travel must be authorized by two (2) Officers in accordance with the Travel and Expense Policy [*2 O.C. 219.4-2*]. All travel must be approved through majority vote of a quorum of Police Commission in attendance at a regular or emergency Police Commission meeting [*Proposed Bylaws 2-6(b)*] in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(b)(6)(B)*]. Police Commission members may travel in the Nation's vehicles when certified and must follow the Vehicle Driver Certification and Fleet Management law [*2 O.C. 210*].
 - f. The ability to hire personnel was removed from the bylaws starting from the date the bylaws amendments are adopted by the OBC moving forward [*Proposed Bylaws 2-7*].

140 C. ARTICLE III. MEETINGS

Meetings in Current Bylaws [Article III]	Meetings in Proposed Bylaws Amendments [Article III]
<u>Regular Meetings</u> <ul style="list-style-type: none"> Regularly Scheduled – Twice Monthly 	<u>Regular Meetings</u> <ul style="list-style-type: none"> Regularly Scheduled – Once Monthly
<u>Emergency Meetings</u> <ul style="list-style-type: none"> Twenty-Four (24) Hour Notice 	<u>Emergency Meetings</u> <ul style="list-style-type: none"> Twenty-Four (24) Hour Notice
<u>Special Meetings</u> <ul style="list-style-type: none"> Twenty-Four (24) Hour Notice 	<u>Special Meetings</u> <ul style="list-style-type: none"> Special Meetings were removed.
	<u>Joint Meetings</u> <ul style="list-style-type: none"> As Needed Per Approval of OBC.
<u>Interview Meetings</u> <ul style="list-style-type: none"> Additional meetings for the purpose of applicant interviews may be called by the President with the approval of a majority of the membership. 	<u>Interview Meetings</u> <ul style="list-style-type: none"> Additional meetings for applicant interviews for Police Chief or law enforcement officers may be called by the Chairperson with approval of a majority of members making up at least a quorum as long as all members and the public are provided written notice in accordance with the Open Records and Open Meetings law [1 O.C. 107.15].

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- a. Special meetings were removed [*Current Bylaws 3-2*].
- b. Interview meetings are still included in the bylaws amendments. These meetings are not eligible for a stipend because they are not included in resolution BC-05-08-19-B titled, “Amending Resolution BC-09-26-18-D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar amounts and eligibility requirements of stipends.
- c. A provision was added requiring an advance notice in writing and by telephone call to each member of the Police Commission at least twenty-four (24) hours before an emergency meeting is called. Notice by email must use the official Oneida Nation email provided to each member of the Police Commission [*Proposed Bylaws 3-2(a)(1)*].
- d. A provision was added that the Police Commission will notify the Nation’s Secretary within seventy-two (72) hours of an emergency meeting with meeting notice, the reason for an emergency meeting and an explanation of why the matter could not wait for a regular meeting [*Proposed Bylaws 3-2(b)*] in accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(c)(2)(A)].

e. Joint meetings with the OBC were added to the bylaws [*Proposed Bylaws 3-3*] on an as needed basis, with the approval of the OBC in compliance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(c)(3)]. Joint meetings will be held in the OBC conference room. The meeting notice, agenda documents and minutes for joint meetings will be provided and the joint meetings will be conducted in accordance with OBC Resolution BC-03-27-19-D titled “Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.

The agenda will be agreed upon by the Police Commission Chairperson upon the Police Commission approval and the OBC liaison with OBC approval;

The BCSO will provide all parties the agenda, meeting packet and meeting notes;

No action will take place at the joint meeting; and if it is agreed that further action is needed, either the OBC or the Police Commission, or both, will take the issue back to their respective meetings for action through the OBC liaison to the OBC or the Chairperson of the Police Commission;

The Chairperson of the Police Commission will facilitate the meeting;

Formal motions to call the meeting to order, take action or adjourn are unnecessary; and

Actions will be requested by consensus of both bodies.

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- g. The use of e-polls was added to the bylaws. The Chairperson will conduct e-polls and the Vice-Chairperson will serve as designee in the absence of the Chairperson [*Proposed Bylaws 3-6(b)*]. The bylaws require the Police Commission to follow the procedures for conducting e-polls that is included in the Boards, Committees and Commissions law [1 O.C. 105.11].

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D. ARTICLE IV. EXPECTATIONS

This section is new to these bylaws based on the requirements established in the Boards, Committees and Commissions law [1 O.C. 105.10-3(d)].

- a. Members of the Police Commission are required to act in accordance with the Code of Ethics law [1 O.C. 103] [Proposed Bylaws 4-1] which fulfills requirements contained in the Boards, Committees and Commissions law related to behavioral requirements [1 O.C. 105.10-3(d)(1)]. Enforcement of behavioral expectations includes 1) a recommendation by the Police Commission to the OBC to consider terminating a member's appointment and 2) sanctions or penalties according to any applicable laws and policies of the Nation [Proposed Bylaws 4-1(a)]. Recommendation for termination of a member's appointment must be made by majority vote of the Police Commission members in attendance at a Police Commission meeting with an established quorum [Proposed Bylaws 4-1(a)(1)].
- b. Intentional acts of violence that inflicts, attempts to inflict or threatens to inflict emotional or bodily harm or damage to property are prohibited and violations could result in the Police Commission's recommendation to the OBC to terminate the member from the Police Commission or imposition of sanctions or penalties according to any applicable laws and policies of the Nation [Proposed Bylaws 4-2] in accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(d)(2)].
- c. Drug and alcohol use by a Police Commission member when acting in an official capacity is prohibited including prescription or over-the-counter medicine used in an unlawful manner [Proposed Bylaws 4-3] in accordance with the Boards, Committee and Commissions law [1 O.C. 105.10-3(d)(3)]. The definition provided for prohibited drugs is the same definition that appears in the Boards, Committees and Commissions law [Proposed Bylaws 4-3(a)] [1 O.C. 105.3-1(n)].
- d. Police Commission members must follow the Nation's Social Media Policy and their oath of office when using social media while acting on behalf of or as a representative of the Police Commission [Proposed Bylaws 4-4]. If creating a social media account, Police Commission must appoint an administrator [2 O.C. 218.4-2(d)].
- e. The Police Commission will be required to abide by the Nation's Conflict of Interest law and the Boards, Committees and Commissions law [1 O.C. 105.10-3(d)(5) and 105.15] which includes disclosure of conflicts of interest annually [Proposed Bylaws 4-5].

E. ARTICLE V. STIPENDS AND COMPENSATION

- a. This section provides a list of stipends members of the Police Commission are eligible to receive, in addition to clarification that a full day of training is required to receive a training stipend [Proposed Bylaws 5-1] in accordance with the Boards, Committees and Commissions law [1 O.C. 105.13-3] and resolution number BC-05-08-19-B. Clarification is added that besides travel, per diem and business expense reimbursement authorized by the Boards, Committees and Commissions law; Police Commission members are not eligible for any other form of compensation for duties/activities [Proposed Bylaws 5-2].

F. ARTICLE VI. RECORDS AND REPORTING

- a. A requirement was added that agenda items will use the format provided by the BCSO [Proposed Bylaws 6-1]. This complies with the Boards, Committees and Commissions law [1 O.C. 105.10-3(f)].
- b. A requirement was added that minutes will be submitted to the BCSO within thirty (30) calendar days after the Police Commission's approval [Proposed Bylaws 6-2(a)]. This meets the requirements established by the Boards, Committees and Commissions law [1 O.C. 105.10-(f)].

- 212 c. A provision was added that attachments will be kept so that they can be identified to the
213 meeting with which they were presented and will be maintained according to the Open
214 Records and Open Meetings law [*Proposed Bylaws 6-3*] which requires records to be
215 retained for a period of seven (7) years [*1 O.C. 107.9-4*].
- 216 d. Regular communication with the OBC Liaison was added with the Chairperson of the
217 Police Commission reporting to the Liaison [*Proposed Bylaws 6-4*]. This meets the
218 requirements established in the Boards, Committees and Commissions law [*1 O.C. 105.10-*
219 *3(f)(4)*].
- 220 e. A requirement was added in accordance with the Boards, Committees, and Commissions
221 law that all meetings will be audio recorded. The BCSO will approve and/or supply the
222 recording device. All audio recordings will be sent to the BCSO when the minutes are
223 approved by the Police Commission. Executive session is not required to be recorded
224 [*Proposed Bylaws 6-5*]. This complies with the Boards, Committees and Commissions law
225 [*1 O.C. 105.10-3(f)*] and the Open Records and Open Meetings law [*1 O.C. 107.7-3*].
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227 G. ARTICLE VII. AMENDMENTS

- 228 a. A provision was added requiring that amendments follow the Boards, Committees and
229 Commissions law and any other policy of the Nation in accordance with the Boards,
230 Committees and Commissions law [*1 O.C. 105.10-3(g)*] and that the bylaws will be
231 reviewed as needed but no less than annually [*Proposed Bylaws 7-1*].
232

233 **SECTION 5. LEGISLATION RELATED TO BOARDS, COMMITTEES AND COMMISSIONS**

234 There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a detailed list of laws
235 related to the Police Commissions bylaws.

- 236 A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows
237 for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida*
238 *Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between these bylaws and the
239 Oneida Nation Constitution.
240
- 241 B. Oneida Nation Law Enforcement Ordinance [3 O.C. 301]. This law establishes and contains basic
242 requirements for the Police Commission; specific qualifications are included in the bylaws
243 [*Proposed Bylaws 1-5(e)(4)*]. Hearing procedures are established by this law which are used by the
244 Police Commission for disciplinary proceedings. Police Commissioners are appointed by the OBC
245 for a five-year term [*Proposed Bylaws 1-5(b)*]. Police Commissioners may serve more than one
246 term, but not more than three consecutive terms [*Proposed Bylaws 1-5(b)(1)*]. The responsibilities
247 of the Police Commission are included in the bylaws. The proposed bylaws meet the requirements
248 established in this law and there are no conflicts between the bylaws and this law.
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- 250 C. Boards, Committees and Commissions [1 O.C. 105]. This law establishes all requirements related
251 to elected and appointed boards, committees and commissions of the Nation. The law governs the
252 procedures regarding the appointment and election of persons to boards, committees and
253 commissions, creation of bylaws, maintenance of official records, compensation, and other items
254 related to boards, committees and commissions. The Police Commission members are appointed
255 by the OBC [*Proposed Bylaws 1-5(b)*]. The requirements for the Police Commission's bylaws
256 including the required format are contained in this law as well as the requirement to present the
257 bylaws for adoption by the OBC within a reasonable timeframe [*1 O.C. 105.10*]. The proposed
258 bylaws comply with and there are no conflicts between the bylaws and the Boards, Committees
259 and Commissions law.
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- 261 D. Conflict of Interest [2 O.C. 217]. This law applies to the Police Commission and establishes
262 specific limitations to which information or materials that are confidential or may be used by a
263 competitor of the Nation’s enterprises or interests may be used to protect the interests of the Nation.
264 The Boards, Committees and Commissions law establishes that amended bylaws require members
265 to disclose potential or real conflicts annually [1 O.C. 105.10-3(d)(5)] and [1 O.C. 105.15]. This
266 requirement is met in Article IV. 4-5 of the Police Commission Proposed Bylaws. The proposed
267 bylaws comply and there are no conflicts between the bylaws and the Conflict of Interest law.
268
- 269 E. Code of Ethics [1 O.C. 103]. The Police Commission members are required to abide by the Code
270 of Ethics law [Proposed Bylaws 4-1]. This law promotes the highest ethical conduct from elected
271 and appointed government officials and expects that officials will demonstrate the highest standards
272 of personal integrity, truthfulness, honesty, and fortitude in all public activities to inspire public
273 confidence and trust in the governmental officials of the Oneida Nation. Government officials are
274 also expected to adhere to the laws, customs, and traditions of the Nation. The proposed bylaws
275 comply and there are no conflicts between the proposed bylaws and the Code of Ethics.
276
- 277 F. Social Media Policy [2 O.C. 218]. The bylaws require the Police Commission to abide by this law
278 [Proposed Bylaws 4-4] in accordance with the Boards, Committees and Commissions law [1 O.C.
279 105.10-3(d)(4)]. This law regulates social media accounts including how content is managed and
280 who has authority to post on social media on behalf of the Nation. Boards, committees and
281 commissions must register social media accounts with the Nation’s Secretary’s Office to include
282 specific information related to access to the account, acknowledgment and compliance with the
283 Computer Resource Ordinance and this policy, use a Nation issued email address and ensure all
284 content complies with all applicable laws of the Nation, state or federal laws. The proposed bylaws
285 comply and there are no conflicts between the bylaws and the Social Media Policy.
286
- 287 G. Computer Resources Ordinance [2 O.C. 215]. Police Commission members are considered users
288 under this law and must comply with the established requirements to ensure appropriate use of the
289 Nation’s computer resources. There are no conflicts between the bylaws and the Computer
290 Resources Ordinance. Members of an entity must sign an acknowledgment form indicating notice
291 of the Nation’s applicable computer and media related laws according to the Boards, Committees
292 and Commissions law [1 O.C. 105.14-3(b)].
293
- 294 H. Travel and Expense Policy [2 O.C. 219]. Members of the Police Commission are eligible to be
295 reimbursed for travel and per diem to attend a conference or training with the Police Commission
296 approval. This law details that boards, committees and commissions must detail levels of sign-off
297 authority required for travel. Two (2) Officers must sign off on budgetary requests and travel
298 requests require approval by a majority vote of the members in attendance at a regular or emergency
299 meeting with an established quorum [Proposed Bylaws 2-6] in accordance with requirements
300 established in this law [2 O.C. 219.4-2]. The proposed bylaws comply and there are no conflicts
301 between the bylaws and the Travel and Expense Policy.
302
- 303 I. Open Records and Open Meetings [1 O.C. 107]. This law details how records must be maintained
304 and made available to the public and requires that meetings are open to the public unless specific
305 criteria are met which allow the meetings to be closed [1 O.C. 107.15] and [1 O.C. 107.17]. Public
306 notice of meetings is also required by this law [1 O.C. 107.15-1]. The bylaws delegate the
307 maintenance of the records to the Police Commission Secretary and Police Commission meetings
308 are open to the public [Proposed Bylaws 3-1(b)] except portions that meet the exceptions in this
309 law related to personnel matters or contracts are being discussed and deemed confidential [1 O.C.
310 107.4]. Meeting packets and backup materials are available to all Police Commission members
311 and the public [Proposed Bylaws 6-1(b)] and in accordance with this law which states that any

312 requestor has the right make or receive a copy of a public record [1 O.C. 107.7-2]. The proposed
313 bylaws comply and there are no conflicts between the bylaws and the Open Records and Open
314 Meetings law.
315

- 316 A. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities
317 [2 O.C. 210.3-1(g)] and individual members are considered officials [2 O.C. 210.3-1(j)] under this
318 law and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
319 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle
320 of the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials)
321 to have written consent from the BCC they serve on prior to being approved to use a Tribal vehicle
322 [2 O.C. 210.6-1(b)(2)]. Certification includes providing the Human Resources Department with
323 the appropriate license, training certifications, and insurance information [2 O.C. 210.8-1].
324 Additionally, BCC members must abide by all reporting requirements in this law [2 O.C. 210.9-2].
325 a. BCC members who violate this law may be subject to:
326 i. any laws regarding sanctions or penalties; and
327 ii. termination of appointment following the Boards, Committees and Commissions
328 law [1 O.C. 105].

Oneida Police Commission

By-Laws

5 **Article I. Authority**

6 1.1. *Name.* The name of this entity shall be the Oneida Police Commission and may be referred to as the Police
7 Commission.

8 1-2. *Authority.* This entity was established under the Oneida Law Enforcement Ordinance, adopted by BC
9 Resolution # 10-10-01-C.

10 1-3. *Office.* The official mailing address of this entity shall be:

11 Oneida Police Commission
12 P.O. Box 376
13 Oneida, WI 54155

14 1-4. *Membership.* The Police Commission will be made up of five (5) Oneida Tribal members:

15 (a) *How appointed.* All members of the Police Commission shall be appointed by the Oneida Business
16 Committee. All appointments to the Police Commission shall be for five (5) year terms.

17 (b) *How vacancies are filled.* Vacancies on the Police Commission shall be filled by appointment by
18 the Oneida Business Committee in accordance with the Comprehensive Policy Governing Boards,
19 Committees and Commissions.

20 (c) *Qualifications.* All Police Commission members:

21 (1) Must be a member of the Oneida Tribe.

22 (2) Must be 25 years of age or older.

23 (3) Must submit to a complete background investigation. The following would prohibit any
24 person from serving on the Oneida Police Commission:

25 (A) A felony conviction in the State of Wisconsin or any conviction of a crime in another
26 state that would be considered a felony conviction if the offense and adjudication occurred
27 in the State of Wisconsin.

28 (B) A felony arrest which results in a misdemeanor conviction due to a plea
29 arrangement.

30 (C) A conviction of any ordinance violation that could bring discredit to the Commission.

31 (D) Any pardon issued by the Oneida Tribe or the governor of any State, for an offense
32 specified in section 1-4(c)(3)(A)-(C) shall not deem a person as "exonerated" for the
33 purposes of membership on the Oneida Police Commission.

34 (4) Must submit to drug testing prior to appointment and on an annual basis.

35 (5) Must not be an employee of the Oneida Police Department

36 (6) Shall attend applicable training.

37 (7) Must be a person of known good standing in the community.

38 (d) *Removal from office.* In addition to the Removal Law standards, a Commissioner may be removed
39 for:

40 (1) Malfeasance in office.

41 (2) Conduct which could jeopardize the reputation of the Oneida Tribe, the Oneida Police
42 Commission or the law enforcement system.

43 (3) Any change in status which would place the Commissioner in conflict with the qualifications
44 specified in section 1-4(c).

45 (4) Violation of the confidentiality of closed hearings or any other information declared
46 "confidential" by the Oneida Police Commission..

47 (e) *Resignation.* Resignations from the Police Commission shall be in writing and presented to the
48 Police Commission for acceptance.

49

50 **Article II. Officers**

51 2-1. *Officers.* This entity shall have three (3) officers - President, Vice-President and Secretary/Treasurer.

52 2-2. *President Duties.* Responsible for calling meetings and notifying members with the assistance of the
53 Secretary/Treasurer. The President shall preside over all regular and special meetings, shall sign all official
54 Police Commission documents, shall be the liaison to the Business Committee and other departments heads and
55 shall perform any and all duties assigned by the Police Commission. The President shall seek clearance from
56 the Oneida Business Committee via the Communications Department for any media requests made of the Police
57 Commission per the Communication Department Media Policy.

58 2-3. *Vice-President duties.* The Vice-President shall preside at all meetings in the absence of the President and
59 appoint a Vice-President for that meeting. The Vice-President shall work with the President in all matters that
60 concern the Police Commission. In the event of the resignation, removal from office or death of the President,
61 the Vice-President shall assume the role of President until such time as the term of the President would have
62 expired.

63 2-4. *Secretary/Treasurer Duties.* The Secretary/Treasurer shall keep accurate minutes of all meetings, both
64 regular and special, assuring that the minutes are reported in the proper format. The Secretary/Treasurer shall
65 read and answer all mail abiding by/to the decision of the Police Commission. The Secretary/Treasurer shall
66 report at each monthly meeting on the financial status of the Police Commission's funds.

67 2-5. *How chosen and length of term.* The officers shall serve terms of one (1) year and shall be elected by a
68 majority vote at the annual meeting which shall be held in September of each year. Terms of office run from the
69 beginning of the fiscal year. No officer shall serve for more than two (2) consecutive terms. In the event of a
70 vacancy, the successor shall be appointed by the Police Commission for the duration of the unexpired term.

71 2-6. *Personnel.* Any and all hiring of personnel shall be done in accordance with all applicable Oneida personnel
72 policies and procedures and shall be dependent on available funding.

73

74 **Article III. Meetings**

75 3-1. *Regular meetings.* The physical meeting place shall be determined at the first meeting of this entity and may
76 change from time to time as determined by the entity but shall be within the Oneida Nation Reservation
77 boundaries unless noticed to the membership prior to designating the meeting location.

78 (a) The regular meeting of the Police Commission shall be held on the first (1st) Thursday of every month.
79 If the first (1st) Thursday falls on a holiday, then an alternative date may be selected by the Commission.

80 (b) Notice of meeting location, agenda and materials shall be forwarded by the President with the
81 assistance of the Secretary/Treasurer.

82 3-2. *Emergency/Special meetings.* Special meetings may be called by the President or any three (3) members
83 with at least a one (1) day notice.

84 3-3. *Interview meetings.* Additional meetings for the purpose of applicant interviews may be called by the
85 President with the approval of a majority of the membership.

86 3-4. *Quorum*. A quorum shall consist of three (3) members which shall include the President or the Vice-
 87 President.

88 3-5. *Order of Business*. The regular meetings of the Police Commission shall follow the order of business as
 89 set out herein:

- 90 (a) Call to order
- 91 (b) Approval of the Agenda
- 92 (c) Reading of Minutes
- 93 (d) Correction and Approval of Minutes
- 94 (e) Correspondence and Mail
- 95 (f) Standing and Special Committee Reports
- 96 (g) Old Business
- 97 (h) New business
- 98 (i) Other
- 99 (j) Adjournment

100 In order to facilitate the Police Commission's proceedings, the order of business may be amended or suspended
 101 at any time by a majority of the members.

102 3-6. *Closed Session*. During any meeting, with proper notice, a closed session may be called for by any single
 103 member of the Police Commission for the purpose of discussing matters of a confidential nature. Closed
 104 Sessions are limited to members and such invited persons as the Police Commission deems necessary. The
 105 meeting must be returned to "open session" following the "closed session."

106

107 **Article IV. Stipend**

108 4-1. All members of the Police Commission shall receive reimbursement for expenses and stipends as set out
 109 in this Article according to procedures for payment as set by the Comprehensive Policy Governing Boards,
 110 Committees, and Commissions.

111 (a) Members of the Police Commission shall be paid a stipend for each meeting which has established
 112 a quorum in the amount specified under *Sec. 11-3* of the Comprehensive Policy Governing Boards,
 113 Committees and Commissions, providing such quorum be established for a minimum of one hour, and
 114 providing further, that any member(s) collecting a stipend be present for at least one hour.

115 (b) Under *Sec. 11-5* of the Comprehensive Policy Governing Boards, Committees and Commissions,
 116 Members of the Police Commission are entitled to payment of stipends, in addition to any per diem, for
 117 travel approved by the Commission. The stipend shall be at a rate of \$100.00 for each full day they are
 118 present at the conference. No stipend payments shall be made for those days spent traveling to and from
 119 the conference.

120

121 **Article V. Reporting**

122 5-1. *Format*. Agenda items shall be in an identified format.

123 5-2. *Minutes*. Minutes shall be typed and in a consistent format designed to generate the most informative record
 124 of the meetings of the Commission.

125 5-3. *Attachments*. Handouts, reports, memoranda and the like may be attached to the minutes and agenda, or
 126 may be kept separately, provided that all materials can be identified to the meeting in which they are presented.

127 5-4. *Reporting*. The President will report to the Oneida Business Committee per the Comprehensive Policy
 128 Governing Boards, Committees and Commissions. The reporting format may be as the liaison and the Police

129 Commission agree to, but not less than that required in any policy on reporting developed by the Oneida Business
 130 Committee or Oneida General Tribal Council. Reports shall be made within a reasonable time after a meeting
 131 is held, or as the Oneida Business Committee member liaison and the Police Commission agree. Provided that,
 132 the agreement is to uphold the ability of the liaison to act as a support to that Police Commission.
 133

134 **Article VI. Responsibilities**

135 6-1. *Responsibilities.* The Oneida Police Commission shall perform other responsibilities as listed in the Oneida
 136 Law Enforcement Ordinance:

- 137 (a) Appoint, suspend or remove the Police Chief of the Oneida Police Department.
- 138 (b) Approve all law enforcement officer appointments made by the Police Chief including the promotion
 139 of subordinates.
- 140 (c) Adopt, modify and repeal rules governing how lists of individuals, concluded to be eligible for
 141 appointment to law enforcement officer and promotion, are established.
- 142 (d) Approve competitive examinations used to judge suitability for appointment or promotion of law
 143 enforcement officers.
- 144 (e) Approve an eligibility list of individuals determined to be eligible for appointment as a law
 145 enforcement officer or promotion.
- 146 (f) Suspend law enforcement officers or other appointed personnel of the Police Department pending the
 147 filing and hearing of charges against them, subject to the provisions of Oneida Law Enforcement
 148 Ordinance 37.10-1.
- 149 (g) Initiate charges against law enforcement officers or other appointed personnel of the Police
 150 Department.
- 151 (h) Hear charges filed against law enforcement officers or other appointed personnel of the Police
 152 Department, whether filed by the Commission or the Police Chief, make findings and determinations,
 153 and impose penalties, up to and including termination. Such actions are independent of and exempt from
 154 the Oneida Blue Book, as provided in 37.9-1 of the Oneida Nation Law Enforcement Ordinance.
- 155 (i) Hear appeals of disciplinary actions against any law enforcement personnel or non-sworn personnel.
- 156 (j) Adopt rules governing the Oneida Police Commission's management of its own activities.
- 157 (k) Review contracts, and forward to the Oneida Business Committee for approval, concerning cross-
 158 deputization, dispatch function and mutual aid pacts which are made between the Oneida Police
 159 Department and a non-tribal agency, per Oneida Law.
- 160 (l) Approve Standard Operating Procedures of the Oneida Police Department.

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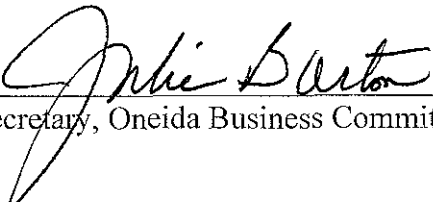
172 **Article VII. Amendments**

173 7-1. *Amendments to the By-Laws.* Amendments shall be made to these by-laws at a regular meeting of the Police
174 Commission provided that written notice of proposed amendments was made at a prior regular meeting.
175 Amendments are effective upon adoption of the Police Commission and approval by the Oneida Business
176 Committee.

177
178 These by-laws as amended and revised are hereby attested to as adopted by the Police Commission
179 at a duly called meeting by the President's signature on this 4th day of March, 2004.

180
181 
182 _____
183 President, Oneida Police Commission

184
185 and by approval of the Oneida Business Committee at a duly called meeting held on this 3rd
186 day of March, 2004 by the Secretary of the Oneida Business Committee's signature.

187
188 
189 _____
190 Secretary, Oneida Business Committee

Oneida Police Commission By-Laws

ONEIDA POLICE COMMISSION BYLAWS

Article I. Authority

1-1. ~~Name.~~ Name. _____ The name of this entity shall be the Oneida Police Commission and may be referred to as the Police Commission.

1-2. ~~Authority. This entity~~ Establishment. The Police Commission was established under the Oneida Nation Law Enforcement _____ Ordinance, adopted by ~~BC Resolution # 10-10-01-C,~~ the Oneida Business Committee through resolution BC-10-_____ 10-01-C and amended by resolution BC-02-25-15-C.

1-3. ~~Authority.~~

(a) Purpose of Entity. The purpose of the Police Commission is to regulate the conduct of the Oneida Nation law enforcement personnel according to the highest professional standards. The Police Commission was established to provide oversight regarding the activities and actions of the law enforcement operations to provide the greatest possible professional services to the Oneida community and to allow for community input regarding those law enforcement services through its representatives on the Police Commission. The Police Commission is an oversight body and does not involve decision making processes on day-to-day activities of those law enforcement services.

(b) Powers and Duties. The Police Commission has all delegated authority established through the laws, policies, rules and resolutions of the Nation, including but not limited to, the Oneida Nation Law Enforcement Ordinance.

1-4. Office. _____ The official mailing address of ~~this entity~~ the Police Commission shall be:

Oneida Police Commission

P.O. Box ~~376~~ 365

Oneida, WI -54155

1-4. ~~5.~~ Membership.

(a) Number of Members. The Police Commission ~~will be made up~~ shall consist of five (5) ~~Oneida Tribal~~ members;.

~~(a) How appointed.~~ (b) Appointed. All members of the Police Commission shall be appointed ~~by the Oneida Business Committee. All appointments to the Police Commission shall be for~~ in accordance _____ with the Boards, Committees and Commissions law to serve a five (5) year ~~terms.~~ term.

(1) Members of the Police Commission may serve more than one (1) term, but not more than three (3) consecutive terms.

~~(b) How vacancies are filled.~~ (2) Members of the Police Commission shall remain in office:
(A) If his or her term has expired, until a successor has been sworn in by the Oneida Business Committee;

(B) Until his or her appointment is terminated; or

(C) Until his or her resignation.

(i) A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Business Committee Support Office and the Police Commission Chairperson or Chairperson's designee. The resignation is effective upon acceptance by motion of a member's verbal resignation or upon delivery of the written notices.

(c) *Vacancies.* Vacancies on the Police Commission shall be filled by appointment by the Oneida Business Committee in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions- law.

~~(e)~~ (1) The Chairperson of the Police Commission shall provide the Oneida Business Committee with a recommendation on all applications for appointment to fill a vacancy by the executive session in which the appointment is intended to be made.

(A) The Chairperson shall include in the recommendation whether the applicant meets the qualifications set forth in these bylaws.

(2) For vacancies in unexpired terms, a replacement member shall hold office through the unexpired portion of the term of the member whom he or she has replaced.

(d) *Qualifications.* All Police Commission members:

(1) ~~(1)~~ Must be ~~an enrolled~~ member of the Oneida ~~Tribe~~Nation.

(2) ~~(2)~~ Must be twenty-five (25) years of age or older.

(3) ~~(3)~~ Must submit to a complete background investigation. The following would ~~prohibit~~ disqualify any person from serving on the Oneida Police Commission:

(A) ~~(A)~~ A felony conviction in the State of Wisconsin or any conviction of a ___ crime in another state that would be considered a felony conviction if ___ the offense and adjudication occurred in the State of Wisconsin.

~~(B)~~ A felony arrest which results in a misdemeanor conviction due to a ___ plea

~~(B)~~ ___ arrangement.

(C) ~~(C)~~ A conviction of any ordinance violation that could bring discredit to ___ the Police Commission, including, but not limited to:

(i) ~~(D)~~ Domestic Abuse; or

(ii) Child Abuse.

(D) Any pardon issued by the Oneida-TribeNation or the governor of any State,~~state~~ for an ___ offense specified ~~in section 1 4(e)(3)(A) (C)~~above shall not deem a person as "exonerated" for the purposes of membership on the Oneida Police Commission.

(4) ~~(4)~~ Must submit to drug testing prior to appointment and on an annual basis.

(5) ~~(5)~~ Must not be an employee of the Oneida Police Department or have been terminated from the Oneida Police Department.

~~(6) Shall attend applicable training.~~

~~(6)~~ ~~(7)~~ Must be a person of known good standing in the community.

(e) Duties/Responsibilities.

(1) Members shall attend regular Police Commission meetings, emergency meetings, trainings and conferences as directed by the Police Commission.

(2) Members shall provide direction; participate in discussion; review Police Commission reports and minutes prior to the meetings; and perform other duties assigned by the Police Commission. ~~(d) Removal from office. In addition~~

~~to the Removal Law standards, a Commissioner may be removed for:~~

~~(1) Malfeasance in office.~~

~~(2)~~

(3) Attendance. The Police Commission has high expectations when it comes to attendance; therefore, attendance will be closely monitored.

(A) Six (6) excused absences of a member from any duly called meeting of the Police Commission within a one (1) year period may be cause for a recommendation by the Police Commission to the Oneida Business Committee for termination of that member's appointment in accordance with section 1-6 of these bylaws.

(B) Four (4) unexcused absences of a member from any duly called meeting of the Police Commission within a one (1) year period may be cause for a recommendation by the Police Commission to the Oneida Business Committee for termination of that member's appointment in accordance with section 1-6 of these bylaws.

(i) A member who fails to provide written notice of his or her pending absence to a Police Commission Officer at least thirty (30) minutes before the start of the duly called missed meeting of the Police Commission shall be deemed unexcused.

(4) Members shall perform all other responsibilities assigned under the Oneida Law Enforcement Ordinance, including, but not limited to:

(A) Appointing, suspending or removing the Police Chief of the Oneida Police Department;

(B) Approving all law enforcement officer appointments made by the Police Chief including the promotion of subordinates;

(C) Adopting, modifying and repealing rules governing how lists of individuals, deemed eligible for appointment to law enforcement officer and promotion, are established;

(D) Approving competitive examinations used to judge suitability for appointment or promotion of law enforcement officers;

(E) Approving an eligibility list of individuals determined to be eligible for appointment as a law enforcement officer or promotion;

(F) Suspending law enforcement officers or other appointed personnel of the Oneida Police Department pending the filing and hearing of charges against them;

(G) Initiating charges against law enforcement officers or other appointed personnel of the Oneida Police Department;

(H) Hearing charges filed against law enforcement officers or other appointed personnel of the Oneida Police Department, whether filed

- 139 by the Police Commission or the Police Chief, making findings and
 140 determinations, and imposing penalties up to and including
 141 termination;
 142 (I) Hearing appeals of disciplinary actions against any law enforcement
 143 personnel or non-sworn personnel;
 144 (J) Adopting rules governing the Police Commission's management of
 145 its own activities;
 146 (K) Reviewing and forwarding for approval contracts to the Oneida
 147 Business Committee relating to cross-deputization, dispatch function
 148 and mutual aid pacts which are made between the Oneida Police
 149 Department and a non-tribal agency; and
 150 (L) Approving Standard Operating Procedures of the Oneida Police
 151 Department.

152
 153 1-6. Termination. A member of the Police Commission may be terminated in accordance with the
 154 Boards, Committees and Commissions law.

- 155 (a) The Police Commission may recommend termination of a member from the Police
 156 Commission to the Oneida Business Committee for the following:
 157 (1) Misconduct or wrong doing as a member of the Police Commission;
 158 (2) Conduct which could jeopardize the reputation of the Oneida Tribe Nation, the
 159 Oneida Police Commission or the law enforcement system;
 160 (3) ~~_____~~ (3) Any change in status which would place the
 161 Commissioner/member of the Police Commission in conflict with the
 162 qualifications specified in section 1-4(c) for membership set forth in these
 163 bylaws;
 164 (4) ~~_____~~ (4) Violation of the confidentiality of closed hearings or any other
 165 information declared "confidential" by the Oneida Police Commission;
 166 and

167 ~~(e) Resignation. Resignations from the Police Commission shall be in writing and presented to the Police~~
 168 ~~Commission for acceptance.~~

- 169 (5) A disclosure of confidential information acquired by reason of a member's
 170 relationship or status with the Police Commission for personal advantage,
 171 gain or profit, or for the advantage, gain or profit of a member's relative or
 172 associate.
 173 (b) Recommendations to the Oneida Business Committee for termination of a Police
 174 Commission member's appointment must be determined by a majority vote of the
 175 members in attendance at a Police Commission meeting of an established quorum.

176
 177 1-7. Trainings and Conferences.

- 178 (a) Contingent upon funding, the following trainings/conferences shall be mandatory for
 179 members of the Police Commission to attend when directed by majority vote of the
 180 members in attendance at a Police Commission meeting of an established quorum:
 181 (1) 1-4 HRD training to save on any travel;
 182 (2) Investigation Case Management;
 183 (3) National Alliance for Drug Endangered Children;
 184 (4) Legal Responsibilities;
 185 (5) Protecting Due Process;

- 186 (6) Confidentiality and Reporting;
 187 (7) Disciplinary Measures;
 188 (8) Report Writing;
 189 (9) Ethics;
 190 (10) Hearings;
 191 (11) Gangs;
 192 (12) Youth Interaction;
 193 (13) Suicide;
 194 (14) School Threats;
 195 (15) First Responders;
 196 (16) Evidence Processing;
 197 (17) Drug Related Death;
 198 (18) Interviews and Child Death;
 199 (19) Crime Scene;
 200 (20) Unresolved Cases;
 201 (21) Prosecution and Role of the Prosecutor;
 202 (22) Media Relations;
 203 (23) Cultural Differences to Build Stronger Communities;
 204 (24) Terrorism & Police Measures;
 205 (25) Victim Assistance;
 206 (26) Shared Jurisdiction;
 207 (27) Consent Searches;
 208 (28) Substance Abuse Prevention;
 209 (29) Case Study;
 210 (30) Trauma;
 211 (31) UWSP Outreach Annual Crisis Conference;
 212 (32) UWGB Training; and
 213 (33) UW – Fox Valley Training.

214 (b) Reimbursement for conferences and trainings shall be subject to the Boards,
 215 Committees and Commissions law and resolution BC-05-08-19-B titled, Amending
 216 Resolution BC-09-26-18-D Boards, Committees and Commissions Law Stipends, as
 217 may be further amended from time-to-time hereafter.

218 (1) Regardless of the number of trainings/conferences that he or she is required
 219 to attend, no member of the Police Commission shall be eligible to receive
 220 stipends for attending more than five (5) full days mandatory trainings/
 221 conferences per year.

223 **Article II. -Officers**

224 2-1. - Officers. This entity The Officer positions of the Police Commission shall have three (3) officers—
 225 President, consist of a Chairperson, a Vice-
 226 President Chairperson and a Secretary/Treasurer.

227 2-2. President Duties. Responsible

228 2-2. Responsibilities of the Chairperson. The duties, responsibilities and limitations of the Chairperson
 229 are as follows:

230 (a) Shall, with the assistance of the Secretary, be responsible for calling meetings and
 231 notifying members with the assistance of the Secretary/Treasurer. The President shall of

the Police Commission, as well as the public, in accordance with governing law, including, but not limited to, the Nation's Open Records and Open Meetings law;

(b) Shall preside over all ~~regular and special~~ meetings, ~~shall~~ and hearings of the Police Commission;

(c) Shall sign or designate one to sign all official Police Commission documents, ~~shall~~;

(d) Shall be the liaison to the Oneida Business Committee and other ~~departments~~ department heads ~~and shall perform any and all~~;

(e) ~~Shall duties assigned by the Police Commission. The President shall~~ seek clearance from the Oneida Business Committee via the Communications Department for any media requests made of the Police Commission per the ~~Communication~~ Communications Department Media Policy;

(f) Shall perform any and all duties assigned by the Police Commission;

(g) Shall submit the recommendations for appointment referred to in section 1-5 and conduct the e-polls referred to section 3-6 of these bylaws; and

(h) Shall, with assistance of the Secretary or through a designee of the Chairperson, submit annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, as required by the Boards, Committees and Commissions law, and shall attend all Oneida Business Committee meetings in which the Police Commission's quarterly report is an agenda item.

2-3.- ~~Responsibilities of the Vice-President duties. The~~ Chairperson. The duties, responsibilities and limitations of the Vice-President shall ~~Chairperson~~ are as follows:

(a) Shall preside at all meetings in the absence of the ~~President~~ Chairperson and appoint a Vice-President ~~Chairperson~~ for that meeting. ~~The Vice-President shall~~;

(b) Shall be responsible for conducting e-polls in the absence of the Chairperson;

(c) Shall work with the ~~President~~ Chairperson in all matters that concern the Police Commission; and

(d) In the event of the resignation, ~~removal~~ dismissal from office or death of the ~~President,~~ the Vice-President Chairperson, shall assume the role of ~~President~~ Chairperson until such time as the Chairperson's term ~~of the President~~ would have expired.

2-4.- ~~Secretary/Treasurer Duties. The~~ Responsibilities of the Secretary/Treasurer shall ~~be~~. The duties, responsibilities and limitations of the Secretary are as follows:

(a) Shall keep accurate minutes of all ~~meetings, both~~ regular, emergency and ~~special~~ joint meetings, assuring that the minutes are reported in the proper format. ~~The Secretary/Treasurer shall read and answer all mail abiding by/to the decision of the Police Commission. The Secretary/Treasurer shall report at each monthly meeting on the financial status of the Police Commission's funds, and consistent with the Boards, Committees and Commissions law;~~

(b) ~~2-5. How chosen and length of term. The officers~~ Shall assist the Chairperson with the calling and notification of meetings, consistent with section 2-2 of these bylaws, and the submission of the annual, semi-annual and quarterly reports required by the Boards, Committees and Commissions law;

(c) Shall ensure that all standard operating procedures established by the Police Commission are submitted to the Oneida Business Committee Support Office; and

(d) In the event that both the Chairperson and the Vice-Chairperson positions become vacant before the end of their terms, shall call meetings of the Police Commission to fill the vacancies and preside over those meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside.

2-5. Selection of Officers. The Officers shall serve terms of one (1) year and shall be elected by a majority vote of the Police Commission members in attendance at the annual meeting of an established quorum, which shall be held in September of each year.

(a) Terms of office run from the beginning of the fiscal year. ~~No officer shall serve for more than two (2) consecutive terms. In the event of a vacancy, the successor shall be appointed by the Police Commission for the duration of the unexpired term.~~

~~2-6. Personnel. Any and all hiring~~ (b) Officers may hold only one (1) Officer position per Officer term.

(c) Members of ~~personnel shall~~ the Police Commission may be ~~done~~ dismissed from their Officer positions by majority vote of the members in ~~accordance with all applicable Oneida personnel~~ attendance at a Police Commission meeting of an established quorum.

2-6. Budgetary Sign-Off Authority and Travel. The Police Commission shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(a) Levels of budgetary sign-off authority for the Police Commission shall be ~~dependent~~ as set forth in the manual titled, Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures, for Area Directors/Enterprise Directors.

(1) All Officers of the Police Commission shall have sign-off authority.

(2) Two (2) Police Commission Officers shall be required to sign-off on ~~available funding~~ all budgetary requests.

(b) Travel requests on behalf of the Police Commission shall be approved by majority vote of the members in attendance at a regular or emergency Police Commission meeting of an established quorum.

2-7. Personnel. From the date these bylaws are adopted by the Oneida Business Committee and moving forward, the Police Commission shall not have authority to hire personnel for the benefit of the Police Commission.

Article III. Meetings

3-1.- Regular Meetings. Regular meetings ~~of~~ of the Police Commission shall be held every fourth (4th) Wednesday of the month, commencing at 5:00 p.m., at the Ridgeview Plaza located in Oneida, Wisconsin. If the fourth (4th) Wednesday of the month falls on a holiday, then an alternative date may be selected by the Police Commission in accordance with these bylaws.

(a) The ~~physical~~ meeting ~~place~~ date, time and location shall be ~~determined~~ reviewed at the first meeting of ~~this entity~~ the Police Commission and may change from time ~~to~~ time as ~~determined by the entity but~~ it so determines upon proper notice to all Police Commission members, in writing, and to the public in accordance with governing law prior to the implementation of the new date, time and/or location.

(1) Meeting locations shall be within the Oneida Nation Reservation boundaries unless ~~noticed to~~ all the membership, as well as the public, is given proper notice,

consistent with governing law, prior to designating the meeting location.

~~(a) The regular meeting of the Police Commission shall be held on the first (1st) Thursday of every month. If the first (1st) Thursday falls on a holiday, then an alternative date may be selected by the Commission.~~

(b) Notice of meeting location, agenda, documents and materials ~~minutes~~ shall be forwarded by the President ~~Chairperson~~ with the assistance of the Executive Administrator or Secretary/Treasurer, to all members of the Police Commission, in writing, and to the public in accordance with governing law, including, but not limited to, the Nation's Open Records and Open Meetings law.

~~(c) 3-2. Emergency/Special meetings. Special meetings may be called by the President or any three (3) members with at least a one (1) day notice.~~

Interview meetings. Additional meetings for the purpose of the applicant interviews for Police Chief or law enforcement officers may be called by the President ~~Chairperson~~ with ~~the~~ approval of a majority of the membership ~~members making up at least a quorum and so long as notice is provided to all members, in writing, and to the public in accordance with governing law, including, but not limited to, the Nation's Open Records and Open Meetings law.~~

3-2. Emergency Meetings.

(a) An emergency meeting shall be called to address specific issues of the Police Commission that will be identified in the notice for the meeting when time sensitive issues require immediate action.

(1) Emergency meetings shall require at least a twenty-four (24) hour advance notice, in writing and by telephone call, to each member of the Police Commission by the Chairperson or the Chairperson's designee and shall further require notice to all Police Commission members, as well as the public, in accordance with governing law, including, but not limited to, the Nation's Open Records and Open Meetings law.

(2) Notice of an emergency meeting that is provided via email must be sent to the official Oneida Nation email address that was provided to each member to conduct Police Commission business electronically.

(b) Within seventy-two (72) hours after an emergency meeting, the Police Commission shall provide the Nation's Secretary with notice of the emergency meeting, the reason for the emergency meeting, and an explanation of why the matter could not wait for a regular meeting.

3-3. Joint Meetings. Joint meetings with the Oneida Business Committee may be held at the Norbert Hill Center, Business Committee Conference Room, upon the request of either party and the agreement of the Oneida Business Committee.

(a) Notice of the joint meeting agenda, documents and minutes shall be provided, and the joint meeting conducted, in accordance with resolution BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact, as may be amended from time-to-time hereafter.

370 3-4.- Quorum.- A quorum shall consist of three (3) members, one (1) of which shall include the
 371 President or the Chairperson. Vice-President. Chairperson or
 372 Secretary, but only if the Secretary is presiding
 373 over a meeting in accordance with section 2-4(d) of these bylaws.

374
 375 3-5.- Order of Business. -The regular meetings of the Police Commission shall follow the order of business
 376 as set out herein:

377 (a)- Call to order

378 (b)- Approval of the Agenda agenda

379 (c)- Reading Approval of Minutes the minutes

380 (d)- Correction and Approval approval of Minutes the minutes

381 (e)- Correspondence and Mail mail

382 (f)- Standing and Special Committee Reports

383 (g) (g)- Old Business business

384 (h) (h)- New business

385 (i) (i)- Other

386 (j) (j)- Adjournment

387 (1) in order to To facilitate the Police Commission's proceedings, the order of
 388 business may be amended or suspended at any time by a majority vote of the
 389 members in attendance at a Police Commission meeting of an established
 390 quorum.

391 (2) Executive 3-6. Closed Session. -During any meeting, with proper notice, a
 392 closed an executive session may be called for by any
 393 single member of the Police Commission for the purpose of discussing matters of a a
 394 confidential nature. Closed Sessions Executive sessions are limited to
 395 members and such invited persons as the Police Commission deems
 396 necessary. -The meeting must be returned to "open session" following the "closed
 397 executive session."

399 3-6. Article IV- Stipend

400 4-1. All members of the Police Commission shall receive reimbursement for expenses and stipends as set out in this
 401 Article according to procedures for payment as set by the Comprehensive Policy Governing Boards, Committees,
 402 and Commissions.

403 (a) Members Voting. Decisions of the Police Commission shall be paid a stipend for each meeting which
 404 has based on a majority vote of the members present at a regular or emergency Police
 405 Commission meeting of an established a quorum.

406 (a) The Chairperson or Officer presiding at the meeting in the amount specified under
 407 Sec. 11-3 of the Comprehensive Policy Governing Boards, Committees and Commissions,
 408 providing such quorum be established for a minimum Chairperson's absence shall
 409 vote only in the case of one hour, and providing further, that any member(s) collecting a
 410 stipend be present for at least one hour. a tie.

411 (b) Under Sec. 11-5. of E-Polls are permitted and shall be conducted in accordance with the
 412 Comprehensive Policy Governing requirements listed in the Boards, Committees and
 413 Commissions law.

414 (1) In the Chairperson's absence, the Vice-Chairperson shall serve as the
 415 designee for conducting e-polls.

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Article IV. – Expectations

4-1. *Behaviors of Members.* Members of the Police Commission ~~are entitled to payment~~ shall act in accordance with the Oneida Code of ~~stipends, in addition to any per diem, for travel approved by the~~ Ethics.

(a) *Enforcement.* Any member of the Police Commission ~~The~~ found to be in violation of these bylaws or any other laws of the Nation may be subject to a recommendation from the Police Commission to the Oneida Business Committee for termination of that member in accordance with the Boards, Committees and Commissions law and/or the imposition of sanctions and/or penalties according to the laws and policies of the Nation governing sanctions and penalties for appointed officials.

(1) Recommendations to the Oneida Business Committee for termination of a Police Commission member's appointment must be determined by a majority vote of the members in attendance at a Police Commission meeting of an established quorum.

4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the Police Commission that inflicts, attempts to inflict, or threatens to inflict emotional or bodily harm on another person, or damage to property, during a meeting or when acting in an official capacity are strictly prohibited and grounds for an immediate recommendation for termination of appointment from the Police Commission and/or the imposition of sanctions and/or penalties according to the laws and policies of the Nation governing sanctions and penalties for appointed officials as determined by a majority vote of the members in attendance at a Police Commission meeting of an established quorum.

4-3. *Drug and Alcohol Use.* Use of alcohol and prohibited drugs by members of the Police Commission when acting in their official capacity is strictly prohibited.

(a) Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substances included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

4-4. *Social Media.* Police Commission members shall abide by the Nation's Social Media Policy and their oath of office when using social media while acting on behalf of or as a representative of the Police Commission.

4-5. *Conflict of Interest.* Police Commission members shall abide by all laws of the Nation governing conflicts of interest. Members must submit a Conflict of Interest form upon taking their oath of office and annually thereafter.

Article V. Stipends and Compensation

5-1. *Stipends.* Police Commission members are eligible for the following stipends as set forth in and subject to these bylaws, the Boards, Committees and Commissions law, and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards,

462 Committees and Commissions Law Stipends, as may be further amended from time-
 463 to-time hereafter:

- 464 (a) A stipend shall be at a rate of \$100.00 for attending a duly called meeting of the Police
 465 Commission for up to one (1) meeting per month.
 466 (b) A stipend for attending a hearing of the Oneida Judiciary if the member's attendance
 467 at the hearing is required by official subpoena.
 468 (c) A stipend for conducting an official hearing of the Police Commission.
 469 (d) A stipend for attending a duly called joint meeting between the Police Commission
 470 and the Oneida Business Committee.
 471 (e) A stipend for each full day they are a member is present at the conference. No stipend
 472 payments shall be made for those days spent traveling to and from the or training when
 473 attendance at the conference or training is required by law, bylaws or resolution.

475 5-2. Compensation. Besides travel, per diem and business expense reimbursement authorized by the
 476 Boards, Committees and Commissions law, members of the Police Commission shall
 477 not be eligible for any other form of compensation for duties/activities they perform
 478 on behalf of the Police Commission.

480 **Article ~~V~~-V1. Records and Reporting**

481 5-6.1. ~~Format. Agenda Items.~~ Agenda items shall be in an identified format maintained in the format provided
 482 by the Oneida Business Committee Support Office.

483 5
 484 6-2.- Minutes.- Minutes shall be typed and in a consistent the format designed provided by the Oneida
 485 Business Committee Support Office to generate the most
 486 informative record of the meetings of the Police Commission.

487 5 (a) All minutes shall be submitted to the Oneida Business Committee Support Office
 488 within thirty (30) calendar days of the Police Commission's approval.

490 6-3.- Attachments. Handouts, reports, memoranda and the like may be attached to the minutes and agenda,
 491 or may be kept separately; provided that all, the
 492 materials can be identified to the meeting in which they were presented, and shall be
 493 maintained in accordance with the Nation's Open Records and Open Meetings law.

494 5-4. Reporting. The President will

495 6-4. Oneida Business Committee Liaison. The Chairperson shall regularly report to the Oneida Business
 496 Committee per member who is the Comprehensive Policy Governing Boards, Committees
 497 and Commissions. Police Commission's designated liaison.

498 (a) The reporting format may and frequency for communication shall be as the liaison
 499 and the Police Commission agree to, but not less than that required in any law of
 500 the Nation or policy on reporting developed by the Oneida Business Committee or
 501 Oneida General Tribal Council.

502 (b) Reports shall be made within a reasonable time after a meeting is held, or as the
 503 Oneida Business Committee member liaison and the Police Commission agree.
 504 Provided, provided that, the agreement is to uphold aimed at upholding the ability of the
 505 liaison to act as a support to that the Police Commission.

507 **Article VI. Responsibilities**

508 6-1. Responsibilities. The Oneida 5. Audio Recordings. All meetings of the Police Commission shall perform

- 509 other responsibilities as listed in the Oneida Law Enforcement Ordinance:
- 510 ~~_____ (a) Appoint, suspend or remove the Police Chief of the be audio recorded using a recording~~
- 511 ~~_____ device approved and/or supplied by the Oneida Business Committee Support Office.~~
- 512 ~~_____ The audio recordings shall be sent to the Oneida Police Department.~~
- 513 ~~_____ (b) Approve all law enforcement officer appointments made by the Police Chief including the promotion of~~
- 514 ~~subordinates.~~
- 515 ~~_____ (c) Adopt, modify and repeal rules governing how lists of individuals, concluded to be eligible Business~~
- 516 ~~_____ Committee Support Office quarterly, for appointment to law enforcement officer~~
- 517 ~~_____ and promotion, purposes of maintaining, when the minutes are established.~~
- 518 ~~_____ (d) Approve competitive examinations used to judge suitability for appointment or promotion of law~~
- 519 ~~_____ enforcement officers.~~
- 520 ~~_____ (e) Approve an eligibility list of individuals determined to be eligible for appointment as a law enforcement~~
- 521 ~~_____ officer or promotion.~~
- 522 ~~_____ (f) Suspend law enforcement officers or other appointed personnel of the Police Department pending the~~
- 523 ~~_____ filing and hearing of charges against them, subject to the provisions of Oneida Law Enforcement Ordinance~~
- 524 ~~_____ 37.10-1.~~
- 525 ~~_____ (g) Initiate charges against law enforcement officers or other appointed personnel of the Police~~
- 526 ~~_____ Department.~~
- 527 ~~_____ (h) Hear charges filed against law enforcement officers or other appointed personnel of the Police~~
- 528 ~~_____ Department, whether filed approved by the Police Commission or the Police Chief, make~~
- 529 ~~_____ findings and determinations, and impose penalties, up to and including termination. Such actions are independent~~
- 530 ~~_____ of and exempt from the Oneida Blue Book, as provided in 37.9-1 of the Oneida Nation Law Enforcement Ordinance.~~
- 531 ~~_____ (i) Hear appeals of disciplinary actions against any law enforcement personnel or non-sworn personnel.~~
- 532 ~~_____ (j) Adopt rules governing the Oneida Police Commission's management of its own activities.~~
- 533 ~~_____ (k) Review contracts, and forward to the Oneida Business Committee for approval, concerning cross-~~
- 534 ~~_____ deputization, dispatch function and mutual aid pacts which are made between the Oneida Police~~
- 535 ~~_____ Department and a non-tribal agency, per Oneida Law.~~
- 536 ~~_____ (l) Approve Standard Operating Procedures of the Oneida Police Department.~~

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547 _____ (a) Audio recordings of executive session portions of a meeting are not required.

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549 **Article VII. Amendments**

550 7-1.- _____ Amendments to the ~~By-Laws.~~ Bylaws. Amendments ~~shall~~ may be made to these ~~by laws~~ bylaws at a regular

551 meeting of the _____ Police Commission provided that written notice of ~~the~~ proposed amendments ~~was~~

552 ~~made~~ is _____ given at a prior regular meeting— and the amendments conform

553 to _____ the _____ Boards,

554 _____ Committees and Commissions law, as well as any other policy of the Nation.

555 _____ (a) Amendments are effective upon adoption of the Police Commission and approval by

556 _____ the Oneida Business Committee.

557 (b) The Police Commission shall review these bylaws from time to time as needed, but
558 no less than on an annual basis.

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560
561 These ~~by laws~~bylaws as amended and revised are hereby attested to as adopted by the Oneida Police Commission
562 at a duly called meeting by the ~~President's~~Chairperson's signature on this ____ day of _____
563 ~~20__~~_____, 2019

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566 _____
567 ~~President~~
568 ~~Chairperson~~, Oneida Police Commission

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571 and by approval of the Oneida Business Committee at a duly called meeting held on this _____
572 _____ day of _____, ~~20__~~_____, 2019 by the Secretary of the
573 Oneida Business Committee's signature.

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578 Secretary, Oneida Business Committee

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Legislative Operating Committee
September 18, 2019

Anna John Resident Centered Care Community Board Bylaws Amendments

Submission Date: 10/3/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *On September 26, 2018, the Oneida Business Committee (“OBC”) adopted the Boards, Committees and Commissions law (“Law”) through resolution BC-09-26-18-C titled Amendments to the Comprehensive Policy Governing Boards, Committees and Commissions. Per Section 105.10 of the Law, within a reasonable time after its adoption, all existing boards, committees and commissions of the Nation must present bylaws for adoption that comply with the format and contain the minimal amount of information prescribed in the Law. In resolution BC-09-26-18-C, the OBC gave the Nation’s boards, committees and commissions six (6) months from the date of the Law’s adoption to present their bylaws. The OBC further directed that, within thirty (30) days of the Law’s adoption, the Legislative Reference Office hold at least two (2) informational meetings with the boards, committees and commissions for purposes of: (1) providing them with an update on the revised bylaws requirements that resulted from the Law’s adoption; (2) providing them with a template for the development of their revised bylaws; and (3) offering them any assistance in the development and drafting of their revised bylaws.*

10/3/18 LOC: Motion by Ernest Stevens III to add Anna John Resident Centered Care Community Board By-Laws Amendments to the active files list; Seconded by Kirby Metoxen. Motion carried.

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brook Doxtator (OBCSO), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (OTEC/Library), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees

and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Pow-wow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elm (SEOTS), Diane Hill (SEOTS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold (2) two informational meetings for the Nation's boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

1/08/19: *AJRCCC Board Meeting.* Present: Maureen Perkins, Kristen M. Hooker, Kristin Jorgenson, Candace House, Shirley Barber, Carol Elm, Patricia Moore, Valerie Groleau. The purpose of this meeting was to walk the AJRCCC Board through the suggested revisions that the LRO Staff Attorney made to the draft of proposed bylaws amendments the Board had submitted to the LRO for review in advance of the deadline for requesting a legislative analysis. The next steps will be: (1) for the Board to submit a revised draft of its proposed bylaws amendments to the LRO Staff Attorney for a final review before forwarding to the LRO Analyst for a legislative analysis; (2) for the LRO Analyst to begin the legislative analysis following the LRO Staff Attorney's final review; and (3) for the draft bylaws amendments proposed by the AJRCCC Board to be brought to a LOC work meeting for review.

1/24/19: *LOC Work Meeting.* Present: Clorissa Santiago, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman King, Jennifer Webster, Kirby Metoxen. The purpose of this meeting was to go through the final draft of the AJRCCC Board's proposed bylaws amendments submitted in accordance with the Boards, Committees and Commissions law and adopting resolution BC-09-26-18-C.

1/31/19: *LOC Work Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to discuss the progress, in general, of the Nation's boards, committees and commissions on getting their bylaws amended and their likelihood of meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to have the LOC draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards,

committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee seeking an extension of the March 26, 2019 bylaws amendments deadline and to forward the memorandum to the Oneida Business Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda for consideration; Seconded by Kirby Metoxen. Motion carried.

2/20/19 LOC: Motion by Jennifer Webster to accept the Anna John Resident Centered Care Community Board Bylaws Amendments and forward to the Oneida Business Committee for consideration; Seconded by Ernest Stevens III. Motion carried.

2/22/19: *OBC Work Session.* Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions Bylaws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting, the LRO Staff Attorney assigned this item provided a status update on the progress of the boards, committees and commissions on the amending of their current bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work session to provide a progress report on the boards, committees and commissions' bylaws amendments.

2/27/19 OBC: Motion by Lisa Summers to approve the Anna John Residential Centered Care Community Board Bylaws, with one (1) change [on line 370 insert language regarding the frequency of the update/review of the bylaws which will be formulated by the Legislative Reference Office based on the discussion today]; Seconded by Kirby Metoxen. Motion carried.

Motion by Lisa Summers to [sic] that item VIII.C.3 is revisited to re-open that discussion; Seconded by David P. Jordan. Motion carried.

Motion by Lisa Summers to review the approval of the Anna John Resident Centered Care Community Bylaws to include one (1) additional change [remove references to specific dollar amounts for stipends and compensation throughout]; Seconded by Jennifer Webster. Motion carried.

3/19/19: *OBC Work Session.* Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions on the amending of their bylaws to conform to the Boards, Committees and

Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LRO to draft a memo for the next LOC meeting to be forwarded to the OBC indicating the same.

**While reviewing the Oneida Gaming Commission's proposed bylaws amendments, the OBC decided to add the following requirements to all of the boards, committees and commissions' bylaws amendments: (1) that, the recommendations for termination be by a majority vote of the members in attendance at a meeting of the entity's established quorum; (2) that, notice of meetings be provided to all members of the entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual, and that, two (2) of the entity's Officers be required to sign-off on all such purchases; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) to allow members to be dismissed (not removed as initially proposed) from their Officer positions by a simple majority of the entity; (5) that, the entities review their bylaws each time a vacancy is filled by a new member; (6) that, stipend amounts not be listed in the entity's bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the joint meeting section of the entity's bylaws.*

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

**Although AJRCCC's By-Laws Amendments were adopted by the OBC on February 27, 2019 subject to one (1) revision, the OBC has since directed that additional items be placed within all bylaws of the Nation; and thus, AJRCCC will have to further amend its bylaws to include those items.*

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments. During this meeting, the OBC also decided that all boards, committees and commissions must add the word "titled" next to the name of the purchasing manual they are required to reference in the "sign-off" section of their bylaws to provide clarification on why the term "Oneida Tribe of Indians" is being used instead of the "Nation".

5/1/19: *LOC Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation's boards, committees and commissions' bylaws amendments before the Oneida Business Committee for adoption.

7/29/19-7/30/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions' bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Anna John Resident Centered Care Community Board Bylaws Amendments.
- Forward the Anna John Resident Centered Care Community Board Bylaws Amendments to the Oneida Business Committee for consideration.

1 **ANNA JOHN RESIDENT CENTERED CARE COMMUNITY BOARD BYLAWS**

2
3 **Article I. Authority**

4 1-1. **Name.** The name of this entity shall be the Anna John Resident Centered Care
5 Community Board and may be hereinafter referred to as the "Board."
6

7 1-2. **Establishment.** This Board was established by motion of the Oneida Business Committee
8 on November 16, 1977 and is recognized by the adoption of these bylaws
9 on November 16, 1977, as amended on April 11, 1979; December 15, 1980;
10 May 15, 1984; February 9, 2011 and April 27, 2011.
11

12 1-3. **Authority.** The Board was established to serve in an advisory capacity for the Anna
13 John Resident Centered Care Community (“AJRCCC”) and is responsible
14 for, including, but not limited to:

- 15 (a) Enhancing services between the community, the residents of the AJRCCC,
16 their families and the AJRCCC Administration;
- 17 (b) Being involved, visiting and participating in activities with the residents of
18 the AJRCCC;
- 19 (c) Ensuring that the AJRCCC is equipped and staffed in a manner that
20 provides the best services for residents of the AJRCCC;
- 21 (d) Bringing the Board’s and AJRCCC residents’ concerns and/or complaints
22 to the AJRCCC Administration, as well as the Comprehensive Health
23 Division Director and/or the Oneida Business Committee liaison to the
24 Board;
- 25 (e) Ensuring that the AJRCCC operates within the guidelines and policies of
26 the Oneida Nation and within all further regulations, rules and policies
27 governing its operations;
- 28 (f) Ensuring that the AJRCCC maintains a safe and sanitary environment while
29 providing quality care and services to its residents as ordered by each
30 resident’s attending physician; and
- 31 (g) Carrying out all other powers and/or duties delegated to the Board by the
32 laws of the Nation.
33

34 1-4. **Office.** The official mailing address of the Board shall be:
35 Anna John Resident Centered Care Community Board
36 c/o Anna John Resident Centered Care Community
37 2901 S. Overland Road
38 Oneida, WI 54155
39

40 1-5. **Membership.**

- 41 (a) **Number of Members.** The Board shall be comprised of seven (7) Board
42 members.
- 43 (b) **Appointed.** Board members shall be appointed by the Oneida Business
44 Committee in accordance with the Boards, Committees and Commissions
45 law for four (4) year terms. Each member shall remain in office:
 - 46 (1) If his or her term has expired, until a successor has been sworn in by
47 the Oneida Business Committee;
 - 48 (2) Until his or her resignation; or

49 (A) A member may resign at any time verbally at a meeting or
50 by delivering written notice to the Oneida Business
51 Committee Support Office and the Board Chairperson or the
52 Chairperson's designee. The resignation is effective upon
53 acceptance by motion of a member's verbal resignation or
54 upon delivery of the written notices.

55 (3) Until his or her appointment is terminated in accordance with the
56 Boards, Committees and Commissions law.

57 (c) **Filling of Vacancies.** Vacancies shall be filled in accordance with the
58 Boards, Committees and Commissions law.

59 (1) The Board's Chairperson shall provide the Oneida Business
60 Committee recommendations on all applications for appointment
61 by the executive session in which the appointment is intended to be
62 made.

63 (2) Vacancies of less than one (1) year shall be filled for the remainder
64 of the term and for a new four (4) year term. Vacancies with greater
65 than one (1) year remaining of the term shall be filled for the
66 remainder of the term.

67 (d) **Qualifications.** Board members shall meet the following qualifications:

68 (1) Be an enrolled member of the Oneida Nation;

69 (2) Be at least eighteen (18) years of age;

70 (3) Reside within Brown or Outagamie County; and

71 (4) Not be employed by the AJRCCC.

72

73 1-6. **Termination.** A Board member's appointment may be terminated in accordance with the
74 Boards, Committees and Commissions law. The following infractions shall
75 be cause for a recommendation by the Board to the Oneida Business
76 Committee for termination of a member's appointment:

77 (a) Three (3) unexcused absences from regular monthly meetings per calendar
78 year as determined in section 3-1 of these bylaws.

79 (1) A Board member who is unexcused for two (2) monthly meetings
80 shall be forwarded a reminder of the meeting dates by the Board
81 Secretary.

82 (2) **Leave of Absence.** Board members will be allowed up to three (3)
83 months Leave of Absence for a medical circumstance within their
84 term of appointment. The Board member requesting a Leave of
85 Absence shall bring the request to an Officer of the Board.

86 (b) A violation of any of the expectations set forth in Article IV of these bylaws
87 may result in a recommendation to the Oneida Business Committee for
88 termination of appointment.

89 (c) Recommendations to the Oneida Business Committee for termination of a
90 Board member's appointment must be determined by a majority vote of the
91 members in attendance at a Board meeting of an established quorum.

92

93 1-7. **Trainings and Conferences.** Board members shall be required to attend a minimum of two
94 (2) trainings or conferences per year. Stipends are only paid for attending a
95 full day of training/conferences in accordance with these bylaws; the
96 Boards, Committees and Commissions law; and resolution BC-05-08-19-B

97 titled, Amending Resolution BC-09-26-18-D Boards, Committees and
98 Commissions Law Stipends, as may be further amended from time-to-time
99 hereafter.

- 100 (a) Trainings/conferences shall include, but shall not be limited to:
101 (1) HIPAA;
102 (2) Medicare/Medicaid;
103 (3) Nutrition;
104 (4) Elderly Health Concerns; and
105 (5) Personal Growth.
106 (b) Regardless of the number of trainings/conferences that he or she is required
107 to attend, no member of the Board shall be eligible to receive stipends for
108 attending more than five (5) full days per year of the trainings/conferences
109 set forth herein.
110

111 **Article II. Officers**

112 2-1. ***Officers.*** The Board shall have three (3) Officers: Chairperson, Vice Chairperson and
113 Secretary. The Officers of the Board shall perform other duties as may be
114 required or requested by the Oneida Business Committee or General Tribal
115 Council.
116

117 2-2. ***Responsibilities of the Chairperson.*** The responsibilities, duties and limitations of the
118 Chairperson of the Board are as follows:

- 119 (a) Shall call meetings, notify Board members, as well as the public, and
120 develop agendas in conjunction with the Board Secretary and consistent
121 with these bylaws, the Boards, Committees and Commissions law and the
122 Nation's Open Records and Open Meetings law;
123 (b) Shall preside at all meetings of the Board and maintain orderly discussions;
124 (c) Shall receive, review and monitor all correspondence from the Board,
125 present to the Board and sign all correspondence approved by the Board;
126 (d) Shall vote only in case of a tie;
127 (e) Shall submit approved and signed Board meeting minutes, in conjunction
128 with the Board Secretary, to the Oneida Business Committee Support
129 Office;
130 (f) Shall, in conjunction with the Board Secretary, submit quarterly reports to
131 the Oneida Business Committee, and submit annual and semi-annual reports
132 to the Oneida General Tribal Council in accordance with the Boards,
133 Committees and Commissions law, and shall attend or designate a Board
134 member to attend the Oneida Business Committee meeting where the
135 Board's quarterly report is on the agenda; and
136 (g) Shall perform other duties assigned by the Board.
137

138 2-3. ***Responsibilities of the Vice-Chairperson.*** The responsibilities, duties and limitations of
139 the Vice-Chairperson of the Board are as follows:

- 140 (a) Shall perform the Chairperson's duties under section 2-2 of these bylaws in
141 the absence of the Chairperson;
142 (b) Shall work with the Chairperson in all matters that concern the Board; and
143 (c) Shall perform other duties as assigned by the Board.
144

- 145 2-4. **Responsibilities of the Secretary.** The responsibilities, duties and limitations of the
146 Secretary of the Board are as follows:
- 147 (a) Shall assist the Chairperson in calling meetings (regular and emergency),
148 providing notice and developing the agenda in accordance with section 2-2
149 of these bylaws;
 - 150 (b) Shall maintain the minutes, reports and correspondence of the Board and
151 provide notice of meeting agendas, documents, and minutes to all Board
152 members, as well as the public, in accordance with these bylaws and the
153 Nation's Open Records and Open Meetings law;
 - 154 (c) Shall perform the Chairperson's duties under section 2-2 of these bylaws, in
155 the absence of the Chairperson and Vice-Chairperson;
 - 156 (1) The Secretary's authority to call and/or preside over meetings of the
157 Board shall be limited to the following:
 - 158 (A) In the event that both the Chairperson and Vice-Chairperson
159 positions become vacant before the end of their terms, the
160 Secretary shall be allowed to call meetings of the Board to
161 fill the vacancies and to preside over those meetings for the
162 sole purpose of conducting an election under section 2-5 of
163 these bylaws, at which point the Chairperson, or Vice-
164 Chairperson in the absence of the Chairperson, shall preside.
 - 165 (d) Shall assist the Chairperson in submitting quarterly reports to the Oneida
166 Business Committee and annual and semi-annual reports to the Oneida
167 General Tribal Council;
 - 168 (e) Shall ensure the Board meeting minutes are recorded and reviewed by the
169 Board;
 - 170 (f) Shall assist the Chairperson in submitting approved and signed Board
171 meeting minutes to the Oneida Business Committee Support Office; and
 - 172 (g) Shall perform other duties as assigned by the Board.
- 173
- 174 2-5. **Selection of Officers.** Officers shall serve one (1) year terms and shall be elected by a
175 majority vote of the members in attendance at a Board meeting of an
176 established quorum.
- 177 (a) Vacancies among Officers of the Board shall be filled for the duration of
178 the unexpired term by a majority vote of the members in attendance during
179 the next regular or emergency Board meeting of an established quorum.
 - 180 (b) Officers may hold only one (1) Officer position per Officer term.
 - 181 (c) Members of the Board may be dismissed from their Officer position by
182 majority vote of the members in attendance at a Board meeting of an
183 established quorum.
- 184
- 185 2-6. **Subcommittees.** Subcommittees may be created and dissolved by the Board from time-to-
186 time as conditions necessitate so long as in accordance with the Boards,
187 Committees and Commissions law.
- 188 (a) A majority vote of the Board members present at a meeting of an established
189 quorum shall be required to create a subcommittee.
 - 190 (b) Members of the subcommittee shall be appointed by the Chairperson and
191 shall be terminated upon completion of their assignment, which ordinarily
192 shall result in a written report to the Board.

- 193 (c) Should a subcommittee, established for whatever reason, be no longer
194 meeting a valid goal of the Board, it may be terminated at any time by
195 majority vote of the members present at a Board meeting of an established
196 quorum.
197 (d) Members of a subcommittee shall not be eligible for stipends unless a
198 specific exception is made by the Oneida Business Committee or the Oneida
199 General Tribal Council.
200

201 2-7. **Budgetary Sign-Off Authority and Travel.** The Board shall follow the Nation’s policies
202 and procedures regarding purchasing and sign-off authority.

- 203 (a) Levels of budgetary sign-off authority for the Board shall be as set forth in
204 the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies*
205 *and Procedures*, for Area Directors/Enterprise Directors.

206 (1) All Board Officers have sign-off authority and two (2) Officers shall
207 be required to sign-off on all budgetary requests, unless otherwise
208 stated herein.

209 (2) The Boards, Committees and Commissions Supervisor may sign-off
210 on meeting stipends in lieu of the Board Officers upon the Board’s
211 request.

- 212 (b) The Board shall remain under the AJRCCC budget.

- 213 (c) Travel shall be approved by a majority vote of the members in attendance
214 at a regular or emergency Board meeting of an established quorum.

215 (1) Travel will further need to be approved by the AJRCCC
216 administrator.
217

218 2-8. **Personnel.** The Board shall not have the authority to hire personnel for the benefit of
219 the Board.
220

221 **Article III. Meetings**

222 3-1. **Regular Meetings.** The Board shall meet monthly on the second (2nd) Wednesday of every
223 month, commencing at 5:00 p.m., at the AJRCCC located in Oneida,
224 Wisconsin.

- 225 (a) The meeting date, time and/or location may change from time-to-time as
226 determined by the Board upon proper notice to all members in writing and,
227 along with the public, in accordance with governing law, including, but not
228 limited to, the Nation’s Open Records and Open Meetings law, prior to the
229 implementation of a new date, time and/or location.

230 (1) The meeting location shall remain within the Reservation
231 boundaries unless notice is given to all Board members in writing
232 and, along with the public, per governing law, including, but not
233 limited to, the Nation’s Open Records and Open Meetings law, prior
234 to designating the meeting location.

- 235 (b) In the event a Board member is not able to attend a meeting, the Board
236 member shall notify an Officer in writing no later than thirty (30) minutes
237 prior to the start of the meeting in order to be excused from the meeting.

238 (1) If the Board member contacts an Officer after the deadline, the
239 Board shall consider the circumstances and make a determination
240 by a majority vote of the members in attendance at a Board meeting

241 of an established quorum to approve or deny the Board member as
242 excused.

243 (c) Robert’s Rules of Order shall be used as a guideline for conducting
244 meetings.

245 (d) The Board Secretary or designee shall provide notice of the meeting agenda,
246 documents, and minutes to all Board members via email, sent to the official
247 Oneida Nation email address that they were provided to conduct business
248 electronically on behalf of the Board (“Official Email”), and, along with the
249 public, in accordance with the Nation’s Open Records and Open Meetings
250 law.

251
252 3-2. **Emergency Meetings.** An emergency meeting may convene outside of regular meetings to
253 address an urgent matter. These meetings may be called by the Chairperson
254 or Vice-Chairperson and as soon as a quorum can be established. The
255 emergency causing the meeting shall be set forth in the minutes.

256 (a) Within seventy-two (72) hours after an emergency meeting, the Board shall
257 provide the Nation’s Secretary with notice of the meeting, the reason for the
258 emergency meeting, and an explanation of why the matter could not wait
259 for a regular meeting.

260 (b) Notification of an emergency meeting shall be provided to all Board
261 members via their Official Email, as well as telephone call, and, along with
262 the public, in accordance with the Open Records and Open Meetings law.
263

264 3-3. **Joint Meetings.** Joint meetings with the Oneida Business Committee may be held as agreed
265 upon between the entities to take place at the Norbert Hill Center located in
266 Oneida, Wisconsin, or some alternate location agreed upon between the
267 Board and the Oneida Business Committee in advance of the joint meeting.

268 (a) Notice of the joint meeting agendas, documents and minutes shall be
269 provided, and the joint meetings conducted, in accordance with resolution
270 BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with
271 the Boards, Committees and Commissions – Definitions and Impact, as may
272 be amended from time-to-time hereafter.
273

274 3-4. **Quorum.** A quorum shall consist of a majority of the current members of the Board
275 and shall include either the Chairperson Vice-Chairperson or Secretary, but
276 only if the Secretary is presiding over the meeting in accordance with
277 section 2-4(c) of these bylaws.
278

279 3-5. **Order of Business.** The regular meetings of the Board shall follow the order of business as
280 set out herein:

- 281 (a) Call to Order
- 282 (b) Roll Call
- 283 (c) Opening/Prayer (if requested)
- 284 (d) Approve/Amend Agenda
- 285 (e) Review/Approve/Amend Minutes
- 286 (f) Reports
- 287 (g) Tabled Business
- 288 (h) Old Business

- 289 (i) New Business
- 290 (j) Other Concerns/Announcements
- 291 (k) Next Meeting
- 292 (1) Adjournment
- 293

294 3-6. **Voting.** Voting shall be in accordance with the simple majority vote of over fifty
295 (50) percent of the Board members present at a meeting of an established
296 quorum.

- 297 (a) The Chairperson, or Officer presiding in his or her place, only votes in a tie.
- 298 (b) E-polls are not permitted.
- 299

300 3-7. **Cancellation of Meetings.** Any meeting may be cancelled due to unforeseen circumstances
301 or due to the inclement weather conditions and shall be rescheduled when
302 available.

- 303 (a) In the event a meeting is cancelled, the delegate Board Officer shall contact
304 each Board member prior to the meeting.
- 305 (b) If a Board member is uncertain of a cancelled meeting, call the AJRCCC
306 Board Chairperson or an Officer member by 12:00 p.m., noon, the day of
307 the meeting.
- 308 (c) Should the Nation cancel work due to inclement weather, any scheduled
309 meeting would also be cancelled.
- 310

311 **Article IV. Expectations**

312 4-1. **Behavior of Members.** Members of the Board are expected to behave as follows:

- 313 (a) They shall regularly check their Official Email for communication from
314 Board Officers.
 - 315 (1) If access is not available, members shall utilize the Oneida Nation
316 Community Education Center.
 - 317 (2) Use of personal or work email addresses for Board business is
318 prohibited.
- 319 (b) They shall treat other Board members, community members, AJRCCC staff
320 and residents with respect.
- 321 (c) When receiving concerns regarding AJRCCC, they shall have the
322 complainant put it in writing with as many details as possible for appropriate
323 follow-up.
- 324 (d) **Enforcement.** If a member violates this section, any other section of these
325 bylaws or any governing laws of the Nation, he or she may be subject to a
326 suspension from a future Board meeting; disciplinary action in accordance
327 with any law of the Nation governing sanctions and penalties for appointed
328 officials; and/or recommendation by the Board to the Oneida Business
329 Committee for termination in accordance with the Boards, Committees and
330 Commissions law.
 - 331 (1) Recommendations for termination shall be decided by a majority
332 vote of the members in attendance at a Board meeting of an
333 established quorum.
 - 334

- 335 4-2. **Prohibition of Violence.** Members of the Board are prohibited from committing intentional
336 acts that inflict, attempt to inflict, or threaten to inflict, emotional or bodily
337 harm on another person, or damage to property.
338
- 339 4-3. **Drug and Alcohol Use.** Members of the Board are prohibited from using or being under
340 the influence of prohibited drugs or alcohol while acting in their official
341 capacity as AJRCCC Board members.
342
- 343 4-4. **Social Media.** Members of the Board shall adhere to the Oneida Nation’s Social Media
344 Policy, their oath of office, and as follows with respect to social media:
345 (a) Board members are prohibited from posting on social media confidential
346 information shared in AJRCCC meetings and executive sessions.
347 (1) Complaints shall be addressed with the AJRCCC administration.
348 (b) Any publication of information must be approved by the Board.
349
- 350 4-5. **Conflict of Interest.** Members of the Board must keep their Conflict of Interest form
351 updated with the Oneida Business Committee Support Office.
352 (a) Board members shall abide by all laws of the Nation governing conflicts of
353 interest.
354 (b) In the event of a conflict of interest regarding a complaint or concern in a
355 Board meeting, the conflicted member shall excuse himself or herself from
356 contributing to the conversation and refrain from voting.
357

358 **Article V. Stipends & Compensation**

- 359 5-1. **Stipends.** Board members are eligible for the following stipends as set forth in and
360 subject to these bylaws, the Boards, Committees and Commissions law, and
361 resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D
362 Boards, Committees and Commissions Law Stipends, as may be further
363 amended from time-to-time hereafter:
364 (a) One (1) monthly meeting stipend.
365 (b) Stipends for Judiciary hearings.
366 (1) A member of the Board may receive a stipend for attending an
367 Oneida Judiciary hearing if that member is specifically subpoenaed.
368 (c) A stipend for attendance at each full day of trainings/conferences that is
369 required by law, bylaws or resolution.
370 (d) A stipend for attendance at a duly called joint meeting as defined under the
371 Boards, Committees and Commissions law.
372
- 373 5-2. **Compensation.** Besides the travel, per diem and business expense reimbursement
374 authorized by the Boards, Committees and Commissions law, Board
375 members shall be entitled to no other compensation for the duties/activities
376 they perform on behalf of the Board.
377

378 **Article VI. Records & Reporting**

- 379 6-1. **Agenda Items.** Agenda items shall be given in the format provided by the Oneida Business
380 Committee Support Office.

- 381 (a) Items and backup documents to be on the agenda shall be provided to the
382 Board members a minimum of twenty-four (24) hours prior to the meeting,
383 or items will be tabled to the next meeting.
- 384 (b) Packets of the proposed agenda and the backup documentation shall be
385 made available at the meeting. Executive session items shall be stamped
386 confidential.
- 387
- 388 6-2. **Minutes.** Minutes shall be typed in the Oneida Business Committee Support Office's
389 approved format designed to generate the most informative record of the
390 Board's meetings.
- 391 (a) All minutes shall be submitted to the Oneida Business Committee Support
392 Office within thirty (30) calendar days after approval by the Board.
- 393 (b) Actions taken by the Board are valid when minutes are approved, provided
394 that, minutes are filed according to this Article.
- 395 (c) Copies of the minutes shall be available in accordance with the Open
396 Records and Open Meetings law.
- 397
- 398 6-3. **Attachments.** Handouts, reports, memoranda, and the like shall be attached to the minutes
399 and agenda from the meeting in which they were presented. Records of
400 attachments will be saved in the AJRCCC folder on the Oneida Nation
401 network.
- 402
- 403 6-4. **Oneida Business Committee Liaison.** The Board shall regularly communicate with the
404 Oneida Business Committee liaison. The frequency and method shall be as
405 agreed upon by the Board and the liaison, but no less than that required in
406 any law or policy on reporting developed by the Oneida Business
407 Committee or Oneida General Tribal Council.
- 408 (a) The Chairperson shall report to the Oneida Business Committee liaison.
- 409
- 410 6-5. **Audio Recordings.** The Board shall audio record all meetings, except executive session
411 portions of the meetings.
- 412 (a) All recordings will be kept in the AJRCCC folder on the Oneida Nation
413 network and maintained in accordance with the Nation's Open Records and
414 Open Meetings law.
- 415 (b) The Board will use the Board laptop provided by AJRCCC administration
416 to record the meetings.
- 417

418 **Article VII. Amendments**

- 419 7-1. **Amendments to Bylaws.** The Board, upon written notice, at a duly called regular meeting,
420 may, by a majority vote of the members present at a Board meeting of an
421 established quorum, adopt, amend or repeal any provisions of these bylaws.
- 422 (a) Amendments to these bylaws must conform to the requirements of the
423 Boards, Committees and Commissions law, as well as any other policy of
424 the Nation.
- 425 (b) Amendments are effective upon adoption by the Board and approval by the
426 Oneida Business Committee.
- 427

428 7-2. ***Updating and Review.*** The Board shall conduct review of these bylaws as needed, but no
429 less than on an annual basis.

430
431

432 These bylaws as amended and revised, were adopted by the Anna John Resident Centered Care
433 Community Board at a duly called meeting held on the ___ day of _____, 2019, with
434 amendments approved by the Chairperson of the Anna John Resident Centered Care Community
435 Board at the XXX 30, 2019 Legislative Operating Committee meeting.

436
437

438 _____
438 Candace J. House, Chairperson
439 Anna John Resident Centered Care Community Board

440

441 Approved by the Oneida Business Committee at a duly called meeting held on

442

443

444 _____



Anna John Resident Centered Care Community Board Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: David P. Jordan	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These amendments comply with the Boards, Committees and Commissions law [1 O.C. 105.10].		
Intent of the Bylaws	The intent of these amendments is to comply with the Oneida Business Committee (OBC) directives for amendments to be included in all boards, committees and commissions bylaws.		
Purpose	The purpose of the Anna John Resident Centered Care Community Board (Board) is to serve in an advisory capacity for the Anna John Resident Centered Care Community (AJRCCC) ensuring the operations are within the guidelines and policies of the Oneida Nation and within all regulations, rules and policies governing the operation of the ARJCCC. The Board also ensures the AJRCCC maintains a safe and sanitary environment while providing quality care and services to residents of the facility and as ordered by each resident's attending physician [Proposed Bylaws 1-3].		
Related Legislation	Oneida Nation Constitution, Boards, Committees and Commissions law, Travel and Expense Policy, Open Records and Open Meetings law		
Enforcement/Due Process	The Boards, Committees and Commissions law provides the enforcement process for appointed members. Members of the Board serve at the discretion of the OBC. Upon the recommendation of a member of the OBC or by recommendation of the Board by majority vote [Proposed Bylaws 4-1(d)(1)], a member of the Board may have his or her appointment terminated by the OBC. A two-thirds majority vote of the OBC shall be required to terminate the appointment of an individual. The OBC's decision to terminate an appointment is final and not subject to appeal [1 O.C. 105.7-4].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

1 **SECTION 2. BACKGROUND**

- 2 A. The Board bylaws amendments were added to the active files list on October 3, 2018, with David P.
 3 Jordan as the sponsor.
 4 B. The Board was established by motion of the Oneida Business Committee on November 16, 1977.
 5 C. The current bylaws were approved by the OBC on February 27, 2019. There are additional changes
 6 the OBC directed for all the Nation's boards, committees and commissions bylaws in addition to those
 7 changes required per the Boards, Committees and Commissions law. This analysis reviews those
 8 additional directed changes.
 9

10 **SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW**

- 11 A. The bylaws comply with the Boards, Committees and Commissions law.

- 12 B. The bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-
13 18-D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
14 amounts and eligibility requirements of stipends.
15 C. The proposed bylaws comply with OBC Resolution BC-03-27-19-D titled “Oneida Business
16 Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.
17

18 SECTION 4. AMENDMENTS

19 This section details the changes to the bylaws from the amended bylaws adopted on February 27, 2019.

- 20 A. Termination. A provision was added defining an un-excused absence as failure to notify a Board
21 Officer, in writing, of his or her pending absence no less than thirty (30) minutes before the scheduled
22 meeting that he or she will be absent from *[Proposed Bylaws 3-1(b)]*. Three (3) unexcused absences
23 from regular monthly meetings per calendar year will result in a recommendation by the Board to the
24 OBC to terminate the member’s appointment *[Proposed Bylaws 1-6(a)]*. A provision was added
25 requiring any recommendation to the OBC of termination of membership from the Board must be by
26 majority vote of members at a meeting with an established quorum *[Proposed Bylaws 1-6(c)]* and
27 *[Proposed Bylaws 4-1(d)(1)]*.
28
- 29 B. Trainings and Conferences. A provision was added that regardless of the number of required trainings
30 or conferences, each member of the Board will only receive stipends for no more than five (5) full days
31 of training or conference attendance per year *[Proposed Bylaws 1-7(b)]*.
32
- 33 C. Open Records and Open Meetings. The following provisions were added in relation to the Open
34 Records and Open Meetings law:
- 35 • References were added that notice of meetings will meet requirements in this law *[Proposed*
36 *Bylaws 2-2(a) and (b)]* and *[Proposed Bylaws 3-1(a)(1)]* and *[1 O.C. 107.15]* in accordance
37 with the Boards, Committees and Commissions law *[1 O.C. 105.10-3(f)]*.
 - 38 • A provision was added related to proper notice to all members, in writing, and to the public, in
39 accordance with this law prior to any change to the designated meeting location *[Proposed*
40 *Bylaws 3-1(a)]* and *[1 O.C. 107.15-2(c)]*.
 - 41 • Notification of meetings will be provided by the Board’s official email to all Board members
42 in accordance with this law *[Proposed Bylaws 3-2(b)]* and *[1 O.C. 107.15]*.
 - 43 • Audio recordings will be maintained in accordance with this law *[Proposed Bylaws 6-5(a)]* *[1*
44 *O.C. 107.7-3]*.
- 45
- 46 D. Officers. The following provisions were added in relation to Officer duties:
- 47 • The duty to provide notice of meeting agendas, documents, and minutes to all Board members,
48 as well as the public, in accordance the Open Records and Open Meetings law, was added to
49 the duties of the Board Secretary *[Proposed Bylaws 2-4(b)]* and *[Proposed Bylaws 3-1(d)]*.
 - 50 • A provision was added that if the Chairperson and the Vice-Chairperson positions both become
51 vacant at the same time, the Board Secretary shall call and preside over a meeting of the Board
52 to fill vacancies and to preside over meetings to conduct an election after which the newly
53 elected Chairperson or Vice-Chairperson shall preside *[Proposed Bylaws 2-4(g)]*. In this case
54 the Secretary may also be included to meet the quorum requirement *[Proposed Bylaws 3-4]*.
 - 55 • A provision was added that Board members may be dismissed from an Officer position by
56 majority vote at a meeting with an established quorum *[Proposed Bylaws 2-5(c)]*.
 - 57 • Special committees were changed to Subcommittees and detail was added *[Proposed Bylaws*
58 *2-6]* to comply with the Boards, Committees and Commissions law *[1 O.C. 105.13-10]*.
59
- 60 E. Budgetary Sign-Off Authority and Travel. The sign-off authority levels have changed. The Board will
61 follow the Nation’s policies and procedures regarding purchasing and sign-off authority and will use

62 levels for budgetary sign-off authority that are as set forth in the Oneida Tribe of Indians of Wisconsin
63 Purchasing Policies and Procedures Manuel. All Board Officers shall have sign-off authority and two
64 (2) Officers must sign-off on budgetary requests, including stipends and expenses [*Proposed Bylaws*
65 *2-7*].

- 66 • Although not applicable to the Board; the Board will follow the budgetary sign-off levels
67 dictated by the Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures
68 Manuel for Area Directors/Enterprise Directors, page 217, which includes the following levels
69 of sign-off authority:
 - 70 i. Budgeted items with three bids for items between \$3,000 and \$10,000;
 - 71 ii. Unbudgeted items between \$1,000 and \$5,000; and
 - 72 iii. Budgeted but sole source items between \$1,000 and \$5,000.
- 73 • All travel must be authorized by two (2) Officers in accordance with the Travel and Expense
74 Policy [*2 O.C. 219.4-2*]. All travel must be approved through majority vote of a quorum of
75 Board members in attendance at a regular or emergency Board meeting and will be further
76 approved by the AJRCCC administrator [*Proposed Bylaws 2-7(c)*] in accordance with the
77 Boards, Committees and Commissions law [*1 O.C. 105.10-3(b)(6)(B)*]. Board members may
78 travel in the Nation’s vehicles when certified and must follow the Vehicle Driver Certification
79 and Fleet Management law [*2 O.C. 210*].
80

81 F. Emergency Meetings. Notification of emergency meetings will be provided to all Board members via
82 their official email provided by the Nation and a telephone call; as well as provided to the public in
83 accordance with the Open Records and Open Meetings law [*Proposed Bylaws 3-2(b)*] and [*1 O.C.*
84 *107.15*].
85

86 G. Joint Meetings. The bylaws contain joint meetings with the OBC [*Proposed Bylaws 3-3*] on an as
87 needed basis, with the approval of the OBC. This complies with the Boards, Committees and
88 Commissions law [*1 O.C. 105.10-3(c)(3)*].

- 89 • Joint meetings will be held in the OBC conference room. The meeting notice, agenda
90 documents and minutes for joint meetings will be provided and the joint meetings will be
91 conducted in accordance with OBC Resolution BC-03-27-19-D titled “Oneida Business
92 Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and
93 Impact”.

94
95 H. Enforcement of Behavioral Requirements. Recommendations by the Board for termination of
96 appointment by the OBC require a majority vote of members at a meeting with an established quorum
97 [*Proposed Bylaws 4-1(d)(1)*].
98

99 I. Social Media. Board members are required to adhere to the Social Media policy and their oath of office
100 [*Proposed Bylaws 4-4*].
101

102 J. Compensation. Board members are only eligible for travel, per diem and business expense
103 reimbursement [*Proposed Bylaws 5-2*] as authorized in the Boards, Committees and Commissions law
104 [*1 O.C. 105.13-9*] in accordance with the Nation’s Travel and Expense Policy [*2 O.C. 219.4-2*].
105

106 K. Amendments. Bylaws will be reviewed by the Board no less than annually [*Proposed Bylaws 7-2*].
107

108 L. Minor Changes. Minor changes were made throughout the bylaws amendments for clarity.
109

110 **SECTION 5. LEGISLATION RELATED TO BOARDS, COMMITTEES AND COMMISSIONS**

111 There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a list of laws
112 referenced in the Board bylaws amendments.

- 113 A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows
114 for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida*
115 *Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between these bylaws and the
116 Oneida Nation Constitution.
117
- 118 B. Boards, Committees and Commissions [1 O.C. Chapter 105]. This law establishes all requirements
119 related to elected and appointed Boards, Committees and Commissions of the Nation. The law
120 governs the procedures regarding the appointment and election of persons to boards, committees
121 and commissions, creation of bylaws, maintenance of official records, compensation, and other
122 items related to boards, committees and commissions. The Board is appointed by the Oneida
123 Business Committee [*Proposed Bylaws 1-5(b)*]. The requirements for entity bylaws are contained
124 in this law as well as a requirement that all existing entities of the Nation comply with the format
125 detailed in the law and present the bylaws for adoption by the OBC within a reasonable timeframe.
126 These Board bylaws comply with the Boards, Committees and Commissions law.
127
- 128 C. Travel and Expense Policy [1 O.C. Chapter 219]. Members of the Board are eligible to be
129 reimbursed for travel and per diem to attend a conference or training in accordance with the
130 Nation's travel policies. A list of eligible training and conference topics is included in Article I. 1-
131 7 of the bylaws. Travel must be authorized by two (2) Officers in accordance with this Policy [*2*
132 *O.C. 219.4-2*].
133
- 134 D. Open Records and Open Meetings [1 O.C. Chapter 107]. The Board must comply with this law
135 which details requirements for how meetings must be noticed and how meeting materials must be
136 maintained. Board meetings will be noticed [*Proposed Bylaws 2-2(a) and (b)*] and [*Proposed*
137 *Bylaws 3-1(a)(1)*] in compliance with this law [*1 O.C. 107.15*]. The Board bylaws delegates the
138 maintenance of the records to the Secretary [*Proposed Bylaws 2-4*]. Portions of the Board meetings
139 may be considered closed meeting sessions if exceptions in this law related to personnel matters or
140 contracts are being discussed and deemed confidential. Public notice of meetings is also required
141 by this law [*1 O.C. 107.15-1*]. Meeting packets and backup materials are available to all Board
142 members at the meeting [*Proposed Bylaws 6-1(b)*] and in accordance with this law which states
143 that any requestor has the right make or receive a copy of a public record [*1 O.C. 107.7-2*]. Audio
144 recordings will be maintained in accordance with this law [*Proposed Bylaws 6-5(a)*] [*1 O.C. 107.7-*
145 *3*].
146
- 147 A. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities
148 [*2 O.C. 210.3-1(g)*] and individual members are considered officials [*2 O.C. 210.3-1(j)*] under this
149 law and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
150 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle
151 of the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials)
152 to have written consent from the BCC they serve on prior to being approved to use a Tribal vehicle
153 [*2 O.C. 210.6-1(b)(2)*]. Certification includes providing the Human Resources Department with
154 the appropriate license, training certifications, and insurance information [*2 O.C. 210.8-1*].
155 Additionally, BCC members must abide by all reporting requirements in this law [*2 O.C. 210.9-2*].
156 a. BCC members who violate this law may be subject to:
157 i. any laws regarding sanctions or penalties; and
158 ii. termination of appointment following the Boards, Committees and Commissions
159 law [*1 O.C. 105*].
160

- 48 (A) A member may resign at any time verbally at a meeting or
 49 by delivering written notice to the Oneida Business
 50 Committee Support Office and the Board Chairperson or the
 51 Chairperson's designee. The resignation is effective upon
 52 acceptance by motion of a member's verbal resignation or
 53 upon delivery of the written notices.
- 54 (3) Until his or her appointment is terminated in accordance with the
 55 Boards, Committees and Commissions law.
- 56 (c) **Filling of Vacancies.** Vacancies shall be filled in accordance with the
 57 Boards, Committees and Commissions law.
- 58 (1) The Board's Chairperson shall provide the Oneida Business
 59 Committee recommendations on all applications for appointment
 60 before the executive session in which the appointment is intended to
 61 be made.
- 62 (2) Vacancies of less than one (1) year shall be filled for the remainder
 63 of the term and for a new four (4) year term. Vacancies greater than
 64 one (1) year remaining of the term shall be filled for the remainder
 65 of the term.
- 66 (d) **Qualifications.** Board members shall meet the following qualifications:
- 67 (1) Be an enrolled member of the Oneida Nation;
- 68 (2) Be at least eighteen (18) years of age;
- 69 (3) Reside within Brown or Outagamie County; and
- 70 (4) Not be employed by the AJRCCC.
- 71
- 72 1-6. **Termination.** A Board member's appointment may be terminated in accordance with the
 73 Boards, Committees and Commissions law. The following infractions shall
 74 be cause for a recommendation by the Board to the Oneida Business
 75 Committee for termination of a member's appointment:
- 76 (a) Three (3) unexcused absences from regular monthly meetings per calendar
 77 year.
- 78 (1) A Board member who is unexcused for two (2) monthly meetings
 79 shall be forwarded a reminder of the meeting dates by the Board
 80 Secretary.
- 81 (2) **Leave of Absence.** Board members will be allowed up to three (3)
 82 months Leave of Absence for a medical circumstance within their
 83 term of appointment. The Board member requesting a Leave of
 84 Absence shall bring the request to an Officer of the Board.
- 85 (b) A violation of any of the expectations set forth in Article IV of these bylaws
 86 may result in a recommendation to the Oneida Business Committee for
 87 termination of appointment.
- 88
- 89 1-7. **Trainings and Conferences.** Board members shall be required to attend a minimum of two
 90 (2) trainings or conferences per year. Stipends are only paid for a full day
 91 of trainings/conferences per the Boards, Committees and Commissions law,
 92 for no more than five (5) full days. Trainings/conferences should include,
 93 but not be limited to:
- 94 (a) HIPAA;
- 95 (b) Medicare/Medicaid;

- 96 (c) Nutrition;
- 97 (d) Elderly Health Concerns; and
- 98 (e) Personal Growth.
- 99

100 **Article II. Officers**

101 2-1. **Officers.** The Board shall have three (3) Officers: Chairperson, Vice Chairperson and
 102 Secretary. The Officers of the Board shall perform other duties as may be
 103 required or requested by the Oneida Business Committee or General Tribal
 104 Council.

105
 106 2-2. **Responsibilities of the Chairperson.** The responsibilities, duties and limitations of the
 107 Chairperson of the Board are as follows:

- 108 (a) Shall call meetings, notify Board members and develop agendas in
 109 conjunction with the Board Secretary;
- 110 (b) Shall preside at all meetings of the Board and maintain orderly discussions;
- 111 (c) Shall receive, review and monitor all correspondence from the Board,
 112 present to the Board and sign all correspondence approved by the Board;
- 113 (d) Shall vote only in case of a tie;
- 114 (e) Shall submit approved and signed Board meeting minutes, in conjunction
 115 with the Board Secretary, to the Oneida Business Committee Support
 116 Office;
- 117 (f) Shall, in conjunction with the Board Secretary, submit quarterly reports to
 118 the Oneida Business Committee, and submit annual and semi-annual reports
 119 to the General Tribal Council in accordance with the Boards, Committees
 120 and Commissions law, and shall attend or designate a Board member to
 121 attend the Oneida Business Committee meeting where the Board's quarterly
 122 report is on the agenda; and
- 123 (g) Shall perform other duties assigned by the Board.

124
 125 2-3. **Responsibilities of the Vice Chairperson.** The responsibilities, duties and limitations of
 126 the Vice Chairperson of the Board are as follows:

- 127 (a) Shall perform the Chairperson's duties under Section 2-2 of these bylaws
 128 in the absence of the Chairperson;
- 129 (b) Shall work with the Chairperson in all matters that concern the Board; and
- 130 (c) Shall perform other duties as assigned by the Board.

131
 132 2-4. **Responsibilities of the Secretary.** The responsibilities, duties and limitations of the
 133 Secretary of the Board are as follows:

- 134 (a) Shall assist the Chairperson in calling meetings (regular and emergency)
 135 and notify the Board members;
- 136 (b) Shall maintain the minutes, reports and correspondence of the Board;
- 137 (c) Shall perform the Chairperson's duties under Section 2-2, except Subsection
 138 (b) and (d) in the absence of the Chairperson and Vice Chairperson;
- 139 (d) Shall assist the Chairperson in submitting quarterly reports to the Oneida
 140 Business Committee and annual and semi-annual reports to the General
 141 Tribal Council;
- 142 (e) Shall ensure the Board meeting minutes are recorded and reviewed by the
 143 Board;

- 144 (f) Shall assist the Chairperson in submitting approved and signed Board
 145 meeting minutes to the Oneida Business Committee Support Office; and
 146 (g) Shall perform other duties as assigned by the Board.
 147

148 2-5. **Selection of Officers.** Officers shall serve one (1) year terms and shall be elected by a
 149 majority vote of the Board membership.

- 150 (a) Vacancies among Officers of the Board shall be filled for the duration of
 151 the unexpired term by a majority vote of the quorum during the next regular
 152 or emergency meeting of the Board.
 153 (b) Officers may hold only one (1) Officer position per term.
 154

155 2-6. **Budgetary Sign-Off Authority and Travel.** The Board shall follow the Nation's policies
 156 regarding purchasing and sign-off authority.

- 157 (a) Budgetary sign-off authority for the Board shall be as follows:
 158 (1) An Officer of the board may sign-off on meeting stipends of
 159 seventy-five dollars (\$75) per member, per month.
 160 (2) The Boards, Committees and Commissions Supervisor may sign-off
 161 on meeting stipends in lieu of a Board Officer per the Board's
 162 request.
 163 (3) All other sign-off authority is with the AJRCCC administrator.
 164 (b) The Board shall remain under the AJRCCC budget.
 165 (c) Travel will be approved by majority vote of the voting members at a regular
 166 or emergency meeting of the Board.
 167 (1) Travel will need to be approved by the AJRCCC administrator.
 168

169 2-7. **Personnel.** The Board shall not have the authority to hire personnel for the benefit of
 170 the Board.

- 171 (a) Special committees may be assigned by the Board from time to time as
 172 conditions necessitate.
 173 (1) A majority vote of the quorum of Board members present at a duly
 174 called meeting shall be required to create a special committee.
 175 (2) Members of the special committee shall be appointed by the
 176 Chairperson and shall be terminated upon completion of their
 177 assignment, which ordinarily shall result in a written report to the
 178 Board.
 179 (3) Should a special committee be established which for whatever
 180 reason is no longer meeting a valid goal of the Board, it may be
 181 terminated by the majority vote of the Board at any time.
 182 (4) Members of a special committee shall not be eligible for stipends
 183 unless a specific exception is made by the Oneida Business
 184 Committee or the Oneida General Tribal Council.
 185

186 **Article III. Meetings**

187 3-1. **Regular Meetings.** The Board shall meet monthly the second (2nd) Wednesday of every
 188 month at the AJRCCC. The meeting dates and location may change from
 189 time to time as determined by the Board but shall be within the Reservation
 190 boundaries unless notified to the Board membership prior to designating the
 191 meeting location.

- 192 (a) In the event a Board member is not able to attend a meeting, the Board
 193 member shall contact an AJRCCC Officer no later than two (2) hours prior
 194 to the start of the meeting in order to be excused from the meeting.
 195 (1) If the Board member contacts the AJRCCC Officer after the
 196 deadline, the Board shall consider the circumstances and make a
 197 determination by a majority vote to approve or deny the Board
 198 member as excused.
- 199 (b) Robert's Rules of Order shall be used as a guideline for conducting
 200 meetings.
- 201 (c) The Board Secretary, or delegate, will provide notice of meeting agenda,
 202 documents, and minutes by email to each Board member's official Oneida
 203 Nation email address.
 204
- 205 3-2. **Emergency Meetings.** An emergency meeting may convene outside of regular meetings to
 206 address an urgent matter. These meetings may be called by the Chairperson
 207 or Vice Chairperson and as soon as a quorum can be established. The
 208 emergency causing the meeting shall be set forth in the minutes.
- 209 (a) Within seventy-two (72) hours after an emergency meeting, the Board shall
 210 provide that Nation's Secretary with notice of the meeting, the reason for
 211 the emergency meeting, and an explanation of why the matter could not wait
 212 for a regular meeting.
- 213 (b) Notification of an emergency meeting to the Board members will be by
 214 phone call.
 215
- 216 3-3. **Joint Meetings.** Joint meetings with the Oneida Business Committee may be requested by
 217 the Chairperson as needed or by request of the Oneida Business Committee
 218 as agreed upon to take place at the Norbert Hill Center located in Oneida,
 219 Wisconsin, or some alternate location agreed upon between the Board and
 220 the Oneida Business Committee in advance of the joint meeting.
- 221 (a) The Board Chairperson shall provide notice of meeting agenda, documents
 222 and minutes for joint meetings requested by the Board and the Oneida
 223 Business Committee Support Office shall provide notice of meeting agenda,
 224 documents and minutes for joint meetings requested by the Oneida Business
 225 Committee.
- 226 (b) Notice of meeting agenda, documents and minutes shall be provided by
 227 email.
 228
- 229 3-4. **Quorum.** A quorum shall consist of a majority of the current members of the Board
 230 and shall include either the Chairperson, Vice Chairperson or Secretary.
 231
- 232 3-5. **Order of Business.** The regular meetings of the Board shall follow the order of business as
 233 set out herein:
- 234 (a) Call to Order
 235 (b) Roll Call
 236 (c) Opening/Prayer (if requested)
 237 (d) Approve/Amend Agenda
 238 (e) Review/Approve/Amend Minutes
 239 (f) Reports

- 240 (g) Tabled Business
 241 (h) Old Business
 242 (i) New Business
 243 (j) Other Concerns/Announcements
 244 (k) Next Meeting
 245 (l) Adjournment
 246
- 247 3-6. **Voting.** Voting shall be in accordance with the simple majority vote over fifty (50)
 248 percent of the quorum of Board members present at a duly called meeting.
 249 (a) The Chairperson only votes in a tie.
 250 (b) E-polls are not permitted.
 251
- 252 3-7. **Cancellation of Meetings.** Any meeting may be cancelled due to unforeseen circumstances
 253 or due to the inclement weather conditions and shall be rescheduled when
 254 available.
 255 (a) In the event a meeting is cancelled, the delegate Board Officer shall contact
 256 each Board member prior to the meeting.
 257 (b) If a Board member is uncertain of a cancelled meeting, call the AJRCCC
 258 Board Chairperson or an Officer staff member by 12:00 p.m., noon, the day
 259 of the meeting.
 260 (c) Should the Nation cancel work due to inclement weather, any scheduled
 261 meeting would also be cancelled.
 262

263 **Article IV. Expectations**

- 264 4-1. **Behavior of Members.** Members of the Board are expected to behave as follows:
 265 (a) They shall regularly check email for communication from Board Officers.
 266 (1) If access is not available, members shall utilize the Oneida Nation
 267 Community Education Center.
 268 (2) Use of personal or work email addresses for Board business is
 269 prohibited.
 270 (b) They shall treat other Board members, community members, AJRCCC staff
 271 and residents with respect.
 272 (c) When receiving concerns regarding AJRCCC, they shall have the
 273 complainant put it in writing with as many details as possible for appropriate
 274 follow-up.
 275 (d) Enforcement of these behavioral expectations could result in a suspension
 276 from a future Board meeting, or a recommendation by the Board to the
 277 Oneida Business Committee for the member's termination in accordance
 278 with the Boards, Committees and Commissions law.
 279
- 280 4-2. **Prohibition of Violence.** Members of the Board are prohibited from committing intentional
 281 acts that inflict, attempt to inflict, or threaten to inflict, emotional or bodily
 282 harm on another person, or damage to property. Violations could result in a
 283 recommendation for termination from the Board to the Oneida Business
 284 Committee in accordance with the Boards, Committees and Commissions
 285 law.
 286

287 4-3. **Drug and Alcohol Use.** Members of the Board are prohibited from using or being under
 288 the influence of prohibited drugs or alcohol while acting in their official
 289 capacity as AJRCCC Board members. Violations could result in a
 290 recommendation for termination from the Board to the Oneida Business
 291 Committee in accordance with the Boards, Committees and Commissions
 292 law.

294 4-4. **Social Media.** Members of the Board are prohibited from posting on social media
 295 confidential information shared in AJRCCC meetings and executive
 296 sessions. Complaints shall be addressed with the AJRCCC administration.
 297 Any publication of information must be approved by the Board.
 298

299 4-5. **Conflict of Interest.** Members of the Board must keep their Conflict of Interest form
 300 updated with the Oneida Business Committee Support Office.
 301 (a) Board members shall abide by all laws of the Nation governing conflicts of
 302 interest.
 303 (b) In the event of a conflict of interest regarding a complaint or concern in a
 304 Board meeting, the conflicted member shall excuse himself or herself from
 305 contributing to the conversation and refrain from voting.
 306

307 **Article V. Stipends & Compensation**

308 5-1. **Stipends.** Board members are eligible for the following stipends as set forth in the
 309 Boards, Committees and Commissions law and resolution BC-09-26-18-D,
 310 titled Boards, Committees and Commissions Law Stipends:
 311 (a) One (1) monthly meeting stipend of seventy-five dollars (\$75).
 312 (b) Stipends for Judiciary hearings.
 313 (1) A member of the Board may receive a stipend for attending an
 314 Oneida Judiciary hearing if that member is specifically subpoenaed.
 315 (c) A stipend for attendance at each full day of trainings/conferences that is
 316 required by law, bylaw or resolution.
 317 (d) A stipend for attendance at a duly called joint meeting as defined under the
 318 Boards, Committees and Commissions law.
 319

320 5-2. **Compensation.** Besides per diem and travel expenses, Board members shall be entitled to
 321 no other compensation.
 322

323 **Article VI. Records & Reporting**

324 6-1. **Agenda Items.** Agenda items shall be given in the format provided by the Oneida Business
 325 Committee Support Office.
 326 (a) Items and backup documents to be on the agenda shall be provided to the
 327 Board members a minimum of twenty-four (24) hours prior to the meeting,
 328 or items will be tabled to the next meeting.
 329 (b) Packets of the proposed agenda and the backup documentation shall be
 330 made available at the meeting. Executive session items shall be stamped
 331 confidential.
 332

- 333 6-2. **Minutes.** Minutes shall be typed in the Oneida Business Committee Support Office's
 334 approved format designed to generate the most informative record of the
 335 Board's meetings.
- 336 (a) All minutes shall be submitted to the Oneida Business Committee Support
 337 Office within thirty (30) calendar days after approval by the Board.
- 338 (b) Actions taken by the Board are valid when minutes are approved, provided
 339 that, minutes are filed according to this Article.
- 340 (c) Copies of the minutes shall be available in accordance with the Open
 341 Records and Open Meetings law.
 342
- 343 6-3. **Attachments.** Handouts, reports, memoranda, and the like shall be attached to the minutes
 344 and agenda from the meeting in which they were presented. Records of
 345 attachments will be saved in the AJRCCC folder on the Oneida Nation
 346 network.
 347
- 348 6-4. **Oneida Business Committee Liaison.** The Board shall regularly communicate with the
 349 Oneida Business Committee liaison. The frequency and method shall be
 350 agreed upon by the Board and the liaison.
- 351 (a) The Chairperson shall report to the Oneida Business Committee liaison.
 352
- 353 6-5. **Audio Recordings.** The Board shall audio record all meetings, except executive session
 354 portions of the meetings.
- 355 (a) All recordings will be kept in the AJRCCC folder on the Oneida Nation
 356 network.
- 357 (b) The Board will use the Board laptop provided by AJRCCC administration
 358 to record the meetings.
 359

360 Article VII. Amendments

- 361 7-1. **Amendments to Bylaws.** The Board, upon written notice, at a duly called regular meeting,
 362 may, by a majority vote, adopt, amend or repeal any provisions of these
 363 bylaws.
- 364 (a) Amendments to these bylaws must conform to the requirements of the
 365 Boards, Committees and Commissions law, as well as any other policy of
 366 the Nation.
- 367 (b) Amendments are effective upon adoption by the Board and approval by the
 368 Oneida Business Committee.
 369
- 370 7-2. **Updating and Review.** The Board shall conduct review of these bylaws as needed.
 371
 372

373 These bylaws as amended and revised, were adopted by the Anna John Resident Centered Care
 374 Community Board at a duly called meeting held on the ___ day of _____, 2019, with
 375 amendments approved by the Chairperson of the Anna John Resident Centered Care Community
 376 Board at the XXX 30, 2019 Legislative Operating Committee meeting.
 377

378 _____
 379 Candace J. House, Chairperson
 380 Anna John Resident Centered Care Community Board
 381

382 Approved by the Oneida Business Committee at a duly called meeting held on
383
384
385 _____

1 ANNA JOHN RESIDENT CENTERED CARE COMMUNITY BOARD BYLAWS
2

3 **Article I. Authority**

4 1-1. **Name.** The name of this entity shall be the Anna John Resident Centered Care
5 Community Board and may be hereinafter referred to as the "Board."
6

7 1-2. **Establishment.** This Board was established by motion of the Oneida Business Committee
8 on November 16, 1977 and is recognized by the adoption of these bylaws
9 on November 16, 1977, as amended on April 11, 1979; December 15, 1980;
10 May 15, 1984; February 9, 2011 and April 27, 2011.
11

12 1-3. **Authority.** The Board was established to serve in an advisory capacity for the Anna
13 John Resident Centered Care Community ("AJRCCC") and is responsible
14 for, including, but not limited to:

- 15 (a) Enhancing services between the community, the residents of the AJRCCC,
16 their families and the AJRCCC Administration;
17 (b) Being involved, visiting and participating in activities with the residents of
18 the AJRCCC;
19 (c) Ensuring that the AJRCCC is equipped and staffed in a manner that
20 provides the best services for residents of the AJRCCC;
21 (d) Bringing the Board's and AJRCCC residents' concerns and/or complaints
22 to the AJRCCC Administration, as well as the Comprehensive Health
23 Division Director and/or the Oneida Business Committee liaison to the
24 Board;
25 (e) Ensuring that the AJRCCC operates within the guidelines and policies of
26 the Oneida Nation and within all further regulations, rules and policies
27 governing its operations;
28 (f) Ensuring that the AJRCCC maintains a safe and sanitary environment while
29 providing quality care and services to its residents as ordered by each
30 resident's attending physician; and
31 (g) Carrying out all other powers and/or duties delegated to the Board by the
32 laws of the Nation.
33

34 1-4. **Office.** The official mailing address of the Board shall be:
35 Anna John Resident Centered Care Community Board
36 c/o Anna John Resident Centered Care Community
37 2901 S. Overland Road
38 Oneida, WI 54155
39

40 1-5. **Membership.**

- 41 (a) **Number of Members.** The Board shall be comprised of seven (7) Board
42 members.
43 (b) **Appointed.** Board members shall be appointed by the Oneida Business
44 Committee in accordance with the Boards, Committees and Commissions
45 law for four (4) year terms. Each member shall remain in office:
46 (1) If his or her term has expired, until a successor has been sworn in by
47 the Oneida Business Committee;
48 (2) Until his or her resignation; or

49 (A) A member may resign at any time verbally at a meeting or
 50 by delivering written notice to the Oneida Business
 51 Committee Support Office and the Board Chairperson or the
 52 Chairperson's designee. The resignation is effective upon
 53 acceptance by motion of a member's verbal resignation or
 54 upon delivery of the written notices.

55 (3) Until his or her appointment is terminated in accordance with the
 56 Boards, Committees and Commissions law.

57 (c) **Filling of Vacancies.** Vacancies shall be filled in accordance with the
 58 Boards, Committees and Commissions law.

59 (1) The Board's Chairperson shall provide the Oneida Business
 60 Committee recommendations on all applications for appointment
 61 ~~before~~by the executive session in which the appointment is intended
 62 to ~~be~~ made.

63 (2) Vacancies of less than one (1) year shall be filled for the remainder
 64 of the term and for a new four (4) year term. Vacancies with greater
 65 _____ than ~~one~~ (1) year remaining of the term shall be filled for the
 66 _____ remainder ~~of~~ the term.

67 (d) **Qualifications.** Board members shall meet the following qualifications:

68 (1) Be an enrolled member of the Oneida Nation;

69 (2) Be at least eighteen (18) years of age;

70 (3) Reside within Brown or Outagamie County; and

71 (4) Not be employed by the AJRCCC.

72

73 1-6. **Termination.** A Board member's appointment may be terminated in accordance with the
 74 Boards, Committees and Commissions law. The following infractions shall
 75 be cause for a recommendation by the Board to the Oneida Business
 76 Committee for termination of a member's appointment:

77 (a) Three (3) unexcused absences from regular monthly meetings per calendar
 78 year as determined in section 3-1 of these bylaws.

79 (1) A Board member who is unexcused for two (2) monthly meetings
 80 shall be forwarded a reminder of the meeting dates by the Board
 81 Secretary.

82 (2) **Leave of Absence.** Board members will be allowed up to three (3)
 83 months Leave of Absence for a medical circumstance within their
 84 term of appointment. The Board member requesting a Leave of
 85 Absence shall bring the request to an Officer of the Board.

86 (b) A violation of any of the expectations set forth in Article IV of these bylaws
 87 may result in a recommendation to the Oneida Business Committee for
 88 termination of appointment.

89 (c) Recommendations to the Oneida Business Committee for termination of a
 90 Board member's appointment must be determined by a majority vote of the
 91 members in attendance at a Board meeting of an established quorum.

92

93 1-7. **Trainings and Conferences.** Board members shall be required to attend a minimum of two

94 (2) trainings or conferences per year. Stipends are only paid for attending a
 95 _____ full day _____ of ~~training~~training/conferences per in

96 accordance with these bylaws; the _____ Boards, Committees

97 and Commissions law, ~~for no more than five (5) full days.~~
 98 ~~Trainings/conferences should include,~~ ~~but not;~~ and resolution
 99 BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D
 100 Boards, Committees and Commissions Law Stipends, as may
 101 be limited further amended from time-to-time hereafter.

102 (a) Trainings/conferences shall include, but shall not be limited to:

103 (1) HIPAA;

104 ~~(b)~~ ~~—~~ (2) Medicare/Medicaid;

105 ~~(c)~~ (3) Nutrition;

106 ~~(d)~~ (4) Elderly Health Concerns; and

107 ~~(e)~~ (5) — Personal Growth.

108 (b) Regardless of the number of trainings/conferences that he or she is required
 109 to attend, no member of the Board shall be eligible to receive stipends for
 110 attending more than five (5) full days per year of the trainings/conferences
 111 set forth herein.

112 Article II. Officers

113 2-1. *Officers.* The Board shall have three (3) Officers: Chairperson, Vice Chairperson and
 114 Secretary. The Officers of the Board shall perform other duties as may be
 115 required or requested by the Oneida Business Committee or General Tribal
 116 Council.
 117

118 2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the
 119 Chairperson of the Board are as follows:

120 (a) Shall call meetings, notify Board members, as well as the public, and
 121 develop agendas in —conjunction with the Board Secretary and consistent
 122 with these bylaws, the Boards, Committees and Commissions law and the
 123 Nation’s Open Records and Open Meetings law;

124 (b) Shall preside at all meetings of the Board and maintain orderly discussions;

125 (c) Shall receive, review and monitor all correspondence from the Board,
 126 present to the Board and sign all correspondence approved by the Board;

127 (d) Shall vote only in case of a tie;

128 (e) Shall submit approved and signed Board meeting minutes, in conjunction
 129 with the Board Secretary, to the Oneida Business Committee Support
 130 Office;

131 (f) Shall, in conjunction with the Board Secretary, submit quarterly reports to
 132 the Oneida Business Committee, and submit annual and semi-annual reports
 133 to the Oneida General Tribal Council in accordance with the Boards,
 134 Committees —and Commissions law, and shall attend or designate a Board
 135 member to —attend the Oneida Business Committee meeting where the
 136 Board’s quarterly —report is on the agenda; and

137 (g) Shall perform other duties assigned by the Board.
 138

139 2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of
 140 the Vice-Chairperson of the Board are as follows:

141 (a) Shall perform the Chairperson's duties under ~~Section~~section 2-2 of these
 142 bylaws ~~—~~in the absence of the Chairperson;

143 (b) Shall work with the Chairperson in all matters that concern the Board; and
 144

145 (c) Shall perform other duties as assigned by the Board.
146

147 2-4. **Responsibilities of the Secretary.** The responsibilities, duties and limitations of the
148 Secretary of the Board are as follows:

149 (a) Shall assist the Chairperson in calling meetings (regular and emergency)
150 ~~and notify the Board members~~, providing notice and developing the
151 agenda in accordance with section 2-2 of these bylaws;

152 ~~(b)~~ Shall maintain the minutes, reports and correspondence of the Board
153 and provide notice of meeting agendas, documents, and minutes to all Board
154 members, as well as the public, in accordance with these bylaws and the
155 Nation's Open Records and Open Meetings law;

156 (c) Shall perform the Chairperson's duties under ~~Section~~section 2-2, ~~except~~
157 ~~Subsection (b) and (d) in~~ of these bylaws, in the absence of the
158 Chairperson and Vice-Chairperson;

159 (1) The Secretary's authority to call and/or preside over meetings of the
160 Board shall be limited to the following:

161 (A) In the event that both the Chairperson and Vice-Chairperson
162 positions become vacant before the end of their terms, the
163 Secretary shall be allowed to call meetings of the Board to
164 fill the vacancies and to preside over those meetings for the
165 sole purpose of conducting an election under section 2-5 of
166 these bylaws, at which point the Chairperson, or Vice-
167 Chairperson in the absence of the Chairperson, shall preside.

168 (d) Shall assist the Chairperson in submitting quarterly reports to the Oneida
169 Business Committee and annual and semi-annual reports to the Oneida
170 General ~~Tribal Council~~;

171 (e) Shall ensure the Board meeting minutes are recorded and reviewed by the
172 Board;

173 (f) Shall assist the Chairperson in submitting approved and signed Board
174 meeting minutes to the Oneida Business Committee Support Office; and

175 (g) Shall perform other duties as assigned by the Board.
176

177 2-5. **Selection of Officers.** Officers shall serve one (1) year terms and shall be elected by a
178 majority vote of the ~~Board membership~~ members in attendance at a Board
179 meeting of an established quorum.

180 (a) Vacancies among Officers of the Board shall be filled for the duration of
181 the unexpired term by a majority vote of the ~~quorum~~ members in attendance
182 during the next regular ~~or emergency~~ Board meeting of the Board an
183 established quorum.

184 (b) Officers may hold only one (1) Officer position per Officer term.

185
186 (c) 2-6 Members of the Board may be dismissed from their Officer position by
187 majority vote of the members in attendance at a Board meeting of an
188 established quorum.

189
190 2-6. **Subcommittees.** Subcommittees may be created and dissolved by the Board from time-to-
191 time as conditions necessitate so long as in accordance with the Boards,
192 Committees and Commissions law.

- 193 (a) A majority vote of the Board members present at a meeting of an established
194 quorum shall be required to create a subcommittee.
195 (b) Members of the subcommittee shall be appointed by the Chairperson and
196 shall be terminated upon completion of their assignment, which ordinarily
197 shall result in a written report to the Board.
198 (c) Should a subcommittee, established for whatever reason, be no longer
199 meeting a valid goal of the Board, it may be terminated at any time by
200 majority vote of the members present at a Board meeting of an established
201 quorum.
202 (d) Members of a subcommittee shall not be eligible for stipends unless a
203 specific exception is made by the Oneida Business Committee or the Oneida
204 General Tribal Council.
205

206 **2-7. Budgetary Sign-Off Authority and Travel.** The Board shall follow the Nation's policies
207 and procedures regarding purchasing and
208 sign-off authority.

209 (a) ~~Budgetary~~ Levels of budgetary sign-off authority for the Board shall be as
210 follows:

211 ~~(1)(a)~~ An Officer of set forth in the board may sign-off on meeting stipends
212 of seventy five dollars (\$75) per member, per month manual titled,
213 Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures,
214 for Area Directors/Enterprise Directors.

215 (1) All Board Officers have sign-off authority and two (2) Officers shall
216 be required to sign-off on all budgetary requests, unless otherwise
217 stated herein.

218 (2) The Boards, Committees and Commissions Supervisor may sign-off
219 on meeting stipends in lieu of ~~at the Board Officer per~~ Officers upon
220 the Board's request.

221 ~~(3) All other sign-off authority is with the AJRCCC administrator.~~

222 (b) The Board shall remain under the AJRCCC budget.

223 (c) Travel ~~will~~ shall be approved by a majority vote of the ~~voting~~ members in
224 attendance at a regular ~~or~~ emergency
225 Board meeting of ~~the Board~~ an established quorum.

226 (1) Travel will further need to be approved by the AJRCCC
227 administrator.
228

229 **2-7.8. Personnel.** The Board shall not have the authority to hire personnel for the benefit of
230 the Board.

231 ~~(a) Special committees may be assigned by the Board from time to time as~~
232 ~~conditions necessitate.~~

233 ~~(a) A majority vote of the quorum of Board members present at a duly~~
234 ~~called meeting shall be required to create a special committee.~~

235 ~~(b) Members of the special committee shall be appointed by the~~
236 ~~Chairperson and shall be terminated upon completion of their~~
237 ~~assignment, which ordinarily shall result in a written report to the~~
238 ~~Board.~~

- 239 (c) ~~Should a special committee be established which for whatever~~
240 ~~reason is no longer meeting a valid goal of the Board, it may be~~
241 ~~terminated by the majority vote of the Board at any time.~~
242 (d) ~~Members of a special committee shall not be eligible for stipends~~
243 ~~unless a specific exception is made by the Oneida Business~~
244 ~~Committee or the Oneida General Tribal Council.~~

246 Article III. Meetings

247
248 3-1. **Regular Meetings.** The Board shall meet monthly on the second (2nd) Wednesday of every
249 month, commencing at 5:00 p.m., at the AJRCCC— located in Oneida,
250 Wisconsin.

251 (a) The meeting ~~dates~~date, time and/or location may change from _____
252 _____time—to_time as _____determined by the
253 Board upon proper notice to all members in writing and, _____along with the public,
254 in accordance with governing law, including, but not _____limited to, the
255 Nation’s Open Records and Open Meetings law, prior to the
256 implementation of a new date, time and/or location.

257 (1) The meeting location shall ~~be~~remain within the Reservation
258 _____boundaries unless ~~notified~~notice is given to ~~the~~all Board
259 ~~membership prior to~~members in writing _____and, _____along
260 with the public, per governing law, including, but not
261 limited to, the Nation’s Open Records and Open Meetings law, prior
262 to designating the _____meeting location.

263 (ab) In the event a Board member is not able to attend a meeting, the Board
264 member shall ~~contact~~notify an ~~AJRCCC~~Officer in writing no later than ~~two~~
265 ~~(2) hours~~thirty (30) minutes prior —to the start of the meeting in order to be
266 excused from the meeting.

267 (1) If the Board member contacts ~~the~~AJRCCCan Officer after the
268 _____deadline, the _____Board shall consider the circumstances and make a
269 _____determination _____by a majority vote of the members in attendance at a
270 Board meeting _____of an established quorum to approve or deny the
271 Board _____member as _____excused.

272 (bc) Robert’s Rules of Order shall be used as a guideline for conducting
273 meetings.

274 (ed) The Board Secretary, or ~~delegate,~~willdesignee shall provide notice of the
275 meeting _____agenda,
276 documents, and minutes ~~by~~to all Board members via email, sent to ~~each~~
277 ~~Board member’s~~the official _____Oneida _____Nation email address that they were
278 provided to conduct business electronically on behalf of the Board (“Official
279 Email”), and, along with the public, in accordance with the Nation’s Open
280 Records and Open Meetings law.

281
282 3-2. **Emergency Meetings.** An emergency meeting may convene outside of regular meetings to
283 address an urgent matter. These meetings may be called by the Chairperson
284 or Vice—Chairperson and as soon as a quorum can be established. The
285 emergency causing the meeting shall be set forth in the minutes.

- 286 (a) Within seventy-two (72) hours after an emergency meeting, the Board shall
 287 provide ~~that~~the Nation's Secretary with notice of the meeting, the reason for
 288 ~~the~~ the emergency meeting, and an explanation of why the matter could not
 289 wait for a regular meeting.
- 290 (b) Notification of an emergency meeting ~~to the Board members will be by~~
 291 ~~phone call~~shall be provided to all Board members via their Official
 292 Email, as well as telephone call, and, along with the public, in
 293 accordance with the Open Records and Open Meetings law.

294

295 3-3. **Joint Meetings.** Joint meetings with the Oneida Business Committee may be ~~requested by~~
 296 ~~the Chairperson held~~ as ~~needed or by request of the Oneida Business~~
 297 ~~Committee~~ as agreed upon between the entities to take
 298 place at the Norbert Hill Center located in ~~Oneida,~~
 299 Oneida, Wisconsin, or some alternate location
 300 agreed upon between the Board and
 301 the Oneida Business Committee in advance of the joint meeting.

302 ~~(a) The Board Chairperson shall provide notice of meeting agenda, documents~~
 303 ~~and minutes for joint meetings requested by the Board and the Oneida~~
 304 ~~Business Committee Support Office shall provide notice of meeting agenda,~~
 305 ~~documents and minutes for joint meetings requested by the Oneida Business~~
 306 ~~Committee.~~

307 ~~(b) Notice of meeting agenda, documents and minutes shall be provided by~~
 308 ~~email.~~

309

310 (a) Notice of the joint meeting agendas, documents and minutes shall be
 311 provided, and the joint meetings conducted, in accordance with resolution
 312 BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with
 313 the Boards, Committees and Commissions – Definitions and Impact, as may
 314 be amended from time-to-time hereafter.

315

316 3-4. **Quorum.** A quorum shall consist of a majority of the current members of the Board
 317 and shall include either the Chairperson, Vice-Chairperson or Secretary,
 318 but only if the Secretary is presiding over the meeting in accordance with
 319 section 2-4(c) of these bylaws.

320

321 3-5. **Order of Business.** The regular meetings of the Board shall follow the order of business as
 322 set out herein:

- 323 (a) Call to Order
- 324 (b) Roll Call
- 325 (c) Opening/Prayer (if requested)
- 326 (d) Approve/Amend Agenda
- 327 (e) Review/Approve/Amend Minutes
- 328 (f) Reports
- 329 (g) Tabled Business
- 330 (h) Old Business
- 331 (i) New Business
- 332 (j) Other Concerns/Announcements
- 333 (k) Next Meeting

- 334 (1) Adjournment
335
- 336 3-6. **Voting.** Voting shall be in accordance with the simple majority vote of over fifty
337 (50) percent of the quorum of Board members present at
338 a duly called meeting of an established quorum.
339 (a) The Chairperson, or Officer presiding in his or her place, only votes in a tie.
340 (b) E-polls are not permitted.
341
- 342 3-7. **Cancellation of Meetings.** Any meeting may be cancelled due to unforeseen circumstances
343 or due to the inclement weather conditions and shall be rescheduled when
344 available.
345 (a) In the event a meeting is cancelled, the delegate Board Officer shall contact
346 each Board member prior to the meeting.
347 (b) If a Board member is uncertain of a cancelled meeting, call the AJRCCC
348 Board Chairperson or an Officer staff member by 12:00 p.m., noon, the day
349 of the meeting.
350 (c) Should the Nation cancel work due to inclement weather, any scheduled
351 meeting would also be cancelled.
352

353 Article IV. Expectations

- 354 4-1. **Behavior of Members.** Members of the Board are expected to behave as follows:
355 (a) They shall regularly check email their Official Email for communication
356 from Board Officers.
357 (1) If access is not available, members shall utilize the Oneida Nation
358 Community Education Center.
359 (2) Use of personal or work email addresses for Board business is
360 prohibited.
361 (b) They shall treat other Board members, community members, AJRCCC staff
362 and residents with respect.
363 (c) When receiving concerns regarding AJRCCC, they shall have the
364 complainant put it in writing with as many details as possible for appropriate
365 follow-up.
366 (d) Enforcement. If a member violates this section, any other section of these
367 behavioral expectations could result in a bylaws or any governing laws of the
368 Nation, he or she may be subject to a suspension from a future Board
369 meeting or a disciplinary action in accordance with any law of the Nation
370 governing sanctions and penalties for appointed officials; and/or
371 recommendation by the Board to the Oneida Business Committee for the
372 member's termination in accordance with the Boards, Committees and
373 Commissions law.
374 (1) Recommendations for termination shall be decided by a majority
375 vote of the members in attendance at a Board meeting of an
376 established quorum.
377
- 378 4-2. **Prohibition of Violence.** Members of the Board are prohibited from committing intentional
379 acts that inflict, attempt to inflict, or threaten to inflict, emotional or bodily
380 harm on another person, or damage to property. Violations could result in a
381 recommendation for termination from the Board to the Oneida Business

382 ~~Committee in accordance with the Boards, Committees and Commissions~~
383 ~~law.~~

384
385 4-3. **Drug and Alcohol Use.** Members of the Board are prohibited from using or being under
386 the influence of prohibited drugs or alcohol while acting in their official
387 capacity as AJRCCC Board members. ~~Violations could result in a~~
388 ~~recommendation for termination from the Board to the Oneida Business~~
389 ~~Committee in accordance with the Boards, Committees and Commissions~~
390 ~~law.~~

391
392 4-4. **Social Media.** Members of the Board shall adhere to the Oneida Nation's Social Media
393 Policy, their oath of office, and as follows with respect to social media:

394 (a) Board members are prohibited from posting on social media
395 confidential information shared in
396 AJRCCC meetings and executive sessions.

397 (1) Complaints shall be addressed with the AJRCCC administration.

398 (b) Any publication of information must be approved by the Board.

399
400 4-5. **Conflict of Interest.** Members of the Board must keep their Conflict of Interest form
401 updated with the Oneida Business Committee Support Office.

402 (a) Board members shall abide by all laws of the Nation governing conflicts of
403 interest.

404 (b) In the event of a conflict of interest regarding a complaint or concern in a
405 Board meeting, the conflicted member shall excuse himself or herself from
406 contributing to the conversation and refrain from voting.

407
408 **Article V. Stipends & Compensation**

409 5-1. **Stipends.** Board members are eligible for the following stipends as set forth in and
410 subject to these bylaws, the ~~Boards,~~
411 ~~Committees and Commissions law,~~ and resolution BC-05-08-19-B titled,
412 Amending Resolution BC-09-26-18-D, ~~titled~~
413 Boards, Committees and Commissions Law Stipends, as may be further
414 amended from time-to-time hereafter:

415 (a) One (1) monthly meeting stipend ~~of seventy five dollars (\$75).~~

416 (b) Stipends for Judiciary hearings.

417 (1) A member of the Board may receive a stipend for attending an
418 Oneida Judiciary hearing if that member is specifically subpoenaed.

419 (c) A stipend for attendance at each full day of trainings/conferences that is
420 required by law, ~~bylaw~~ bylaws or resolution.

421 (d) A stipend for attendance at a duly called joint meeting as defined under the
422 Boards, Committees and Commissions law.

423
424 5-2. **Compensation.** Besides the travel, per diem and ~~travel expenses~~ business expense
425 reimbursement authorized by the Boards,
426 Committees and Commissions law, Board members shall
427 be entitled to ~~no other compensation~~ for the duties/activities
428 they perform on behalf of the Board.

429

430 **Article VI. Records & Reporting**

431 6-1. **Agenda Items.** Agenda items shall be given in the format provided by the Oneida Business
432 Committee Support Office.

433 (a) Items and backup documents to be on the agenda shall be provided to the
434 Board members a minimum of twenty-four (24) hours prior to the meeting,
435 or items will be tabled to the next meeting.

436 (b) Packets of the proposed agenda and the backup documentation shall be
437 made available at the meeting. Executive session items shall be stamped
438 confidential.

439
440 6-2. **Minutes.** Minutes shall be typed in the Oneida Business Committee Support Office's
441 approved format designed to generate the most informative record of the
442 Board's meetings.

443 (a) All minutes shall be submitted to the Oneida Business Committee Support
444 Office within thirty (30) calendar days after approval by the Board.

445 (b) Actions taken by the Board are valid when minutes are approved, provided
446 that, minutes are filed according to this Article.

447 (c) Copies of the minutes shall be available in accordance with the Open
448 Records and Open Meetings law.

449
450 6-3. **Attachments.** Handouts, reports, memoranda, and the like shall be attached to the minutes
451 and agenda from the meeting in which they were presented. Records of
452 attachments will be saved in the AJRCCC folder on the Oneida Nation
453 network.

454
455 6-4. **Oneida Business Committee Liaison.** The Board shall regularly communicate with the
456 Oneida Business Committee liaison. The frequency and method shall be as
457 agreed upon by the Board and the liaison, but no less than that required in
458 any law or policy on reporting developed by the Oneida Business
459 Committee or Oneida General Tribal Council.

460 (a) The Chairperson shall report to the Oneida Business Committee liaison.

461
462 6-5. **Audio Recordings.** The Board shall audio record all meetings, except executive session
463 portions of the meetings.

464 (a) All recordings will be kept in the AJRCCC folder on the Oneida Nation
465 network and maintained in accordance with the Nation's Open Records and
466 Open Meetings law.

467 (b) The Board will use the Board laptop provided by AJRCCC administration
468 to record the meetings.

469

470 **Article VII. Amendments**

471 7-1. **Amendments to Bylaws.** The Board, upon written notice, at a duly called regular meeting,
472 may, by a majority vote of the members present at a Board meeting of an
473 established quorum, adopt, amend or repeal any provisions of these
474 bylaws.

475 (a) Amendments to these bylaws must conform to the requirements of the
476 Boards, Committees and Commissions law, as well as any other policy of
477 the Nation.

478 (b) Amendments are effective upon adoption by the Board and approval by the
479 Oneida Business Committee.

480
481 7-2. ***Updating and Review.*** The Board shall conduct review of these bylaws as needed, but no
482 less than on an annual basis.

483
484
485 These bylaws as amended and revised, were adopted by the Anna John Resident Centered Care
486 Community Board at a duly called meeting held on the ___ day of _____, 2019, with
487 amendments approved by the Chairperson of the Anna John Resident Centered Care Community
488 Board at the XXX 30, 2019 Legislative Operating Committee meeting.

489
490 _____
491 Candace J. House, Chairperson
492 Anna John Resident Centered Care Community Board

493
494 Approved by the Oneida Business Committee at a duly called meeting held on
495
496 _____
497



Legislative Operating Committee
September 18, 2019
**Oneida Election Board Bylaws
Amendments**

Submission Date: 9/6/17	Public Meeting: n/a
LOC Sponsor: Kirby Metoxen	Emergency Enacted: n/a Expires: n/a

Summary: *Last term the Oneida Election Board requested amendments to its bylaws to reflect the Election law and previous GTC action. It was decided that bylaws would not be processed until amendments to the Comprehensive Policy Governing Boards, Committees and Commissions were adopted. On September 26, 2018, the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law) was amended through adoption of resolution BC-09-26-18-C.*

9/6/17 LOC: Motion by Daniel Guzman King to add Election Board By-Laws Amendments to the Active Files List with Kirby Metoxen as the sponsor; Seconded by Ernie Stevens III. Motion carried.

11/1/17 LOC: Motion by Kirby Metoxen to approve the 60-day Active Files List update and continue development of all the items on the Active Files List; Seconded by Ernie Stevens III. Motion carried.

9/26/18 OBC: Motion by Lisa Summers to adopt resolution BC-09-26-18-C, titled Amendments to the Comprehensive Policy Governing Boards, Committee and Commissions with two (2) changes: [1] request that the language in line 84 of the resolution be changed to a six (6) month deadline to complete the new by-laws; and 2) to eliminate the postmark allowance referenced in lines 112-114 of draft 3]; Seconded by David P. Jordan. Motion carried.

Per resolution BC-09-26-18-C: "The Oneida Business Committee directs that boards, committees, and commissions of the Nation shall have six (6) months from the adoption of [the Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions ("Law")] to present bylaws for adoption. Within thirty (30) days, the Legislative Reference Office shall provide at least two (2) informational bylaw meetings with the various boards, committees, and commissions of the Nation. The purpose of the informational bylaws meetings will be for the Legislative Reference Office to: a. provide an update on the revised bylaw requirements as a result of the amendments to the

Law; b. provide a template for the development of revised bylaws; and c. offer assistance to boards, committees, and commissions in the development and drafting of updated bylaws.”

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brooke Doxtator (OBCSO), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (Library/OTEC), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a the Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Pow-wow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elm (SEOTS), Diane Hill (SEOTS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a the Boards, Committees and Commissions law), the LRO was directed to hold (2) two informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

1/20/19: *LOC Work Meeting.* Present: Kristen M. Hooker, Jennifer Falck, Jennifer Webster, David P. Jordan, Kirby Metoxen, Ernie Stevens III and Daniel Guzman-King. The purpose of this meeting was to go through the draft of the Oneida Election Board’s proposed bylaws amendments that were finalized following a review by the LRO Staff Attorney and submitted for legislative analysis in accordance with the Boards, Committees and Commissions law/resolution BC-09-26-18-C.

1/31/19: *LOC Work Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to discuss the progress, in general, of the Nation’s boards, committees and commissions in getting their bylaws amended and the likelihood of them meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards,

committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee and forward to the Oneida Business Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda; Seconded by Kirby Metoxen. Motion carried.

2/22/19: *OBC Work Session.* Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions Bylaws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting the LRO Staff Attorney assigned this item provided a status update on the progress of the boards, committees and commissions in the amending of their current bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work session to provide a progress report on the boards, committees and commissions' bylaws amendments.

3/4/19 LOC: Motion by Jennifer Webster to accept the Oneida Election Board Bylaws Amendments and forward to the Oneida Business Committee for consideration; Seconded by Ernest Stevens III. Motion Carried.

3/13/19 OBC: Motion by Lisa Summers to accept the five (5) noted changes to the Oneida Election Board bylaws [1] include language in § 1-6. that recommendations to the OBC for termination of appointments be by majority vote of a quorum; 2) include language in § 2-2. that the Chair, or designee who is a member of the Board, has an additional due [sic] [duty] to attend the Oneida Business Committee meeting where their quarterly report is presented; 3) include language in § 2-5. that members may be removed from an Officer position by majority vote of the Board and that meetings to fill Officer positions must be duly called; 4) include language in § 4-1. that recommendations to the OBC for termination of appointments be by majority vote of a quorum; and 5) include reference § 4-5. to the Conflict of Interest law regarding "immediate family member"]; to defer the discussion of § 2-6. of the Oneida Election Board bylaws and the discussion of the appointing of alternates to the March 19, 2019, Business Committee Work Session for further review, and to bring back the final draft of the Oneida Election Bylaws to the March 27, 2019, regular Business Committee meeting for consideration; Seconded by Ernie Stevens III. Motion carried.

3/19/19: *OBC Work Session.* Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions

in the amending of their bylaws to conform to the Boards, Committees and Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LOC to draft a memo to the OBC indicating the same.

**Although placed on the OBC Work Session Agenda for discussion, the Election Board's bylaws were not addressed specifically. A decision was made, however, to include the following requirements in all bylaws amendments of the boards, committees and commissions: (1) that the recommendations for termination be by a majority vote of the entity members in attendance at a meeting of an established quorum; (2) that, notice of meetings be provided to all members of an entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual and that two (2) Officers be required to sign-off on each purchase; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) allowing Officers to be dismissed (not removed as initially proposed) by a majority of an entity's members; (5) that entities review their bylaws each time a vacancy is filled by a new member; (6) that stipend amounts not be listed in the bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the section of the bylaws that addresses joint meetings.*

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

Motion by David P. Jordan to defer the Oneida Election Board bylaws to the Legislative Operating Committee; Seconded by Brandon Stevens. Motion carried.

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments; specifically, the Ad Hoc Committee section. Following a brief discussion, the OBC approved the section's proposed language, confirming that Ad Hoc Committee members: (1) would be appointed by the OBC; (2) would take the oath administered to all members of the boards, committees and commissions; and (3) would not have to undergo training. The OBC further decided that all bylaws should be revised to include the word "titled" next to

the name of the purchasing manual referred to in the sign-off section of the bylaws to better clarify why “Oneida Tribe of Indians” is used instead of “Nation”.

5/1/19: *LOC Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation’s boards, committees and commissions’ bylaws amendments before the Oneida Business Committee for adoption.

7/29/19-7/30/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions’ bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Election Board Bylaws Amendments.
- Forward the Election Board Bylaws Amendments to the Oneida Business Committee for consideration

ONEIDA ELECTION BOARD BYLAWS

Article I. Authority

1-1. *Name.* The name of this entity shall be the Oneida Election Board and may be referred to as the Board.

1-2. *Establishment.* This Board was established by the Oneida General Tribal Council (“GTC”) on July 7, 1939, through resolution GTC-07-07-39; and under the Nation’s Election law, adopted by GTC motion during its June 19, 1993 special meeting, as further amended by motion of the Oneida Business Committee on June 28, 1995, as well as resolutions GTC-07-06-98-A, GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A.

1-3. *Authority.*

(a) *Purpose.* The Board was created to carry out the provisions of the Election law and Article III, Sections 2 & 3 of the Constitution of the Oneida Nation. The purpose of the Board is to conduct the Nation’s elections in compliance with the laws of the Nation and assist with GTC meetings in reference to voting.

(b) *Powers and Duties.* The Board is responsible to conduct elections and to govern all procedures used in the election process along with attending GTC meetings. The Board has all delegated authority established through the laws, policies, rules and resolutions of the Nation, including, but not limited to, the Election law.

1-4. *Office.*

The official mailing address of the Election Board shall be:
Oneida Election Board
P.O. Box 413
Oneida, Wisconsin 54155

1-5. *Membership.*

(a) *Number of Members.* The Election Board shall consist of nine (9) members.

(1) *Board Alternates.* The Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election day and pre-election activities.

(b) *Elected.* Members of the Board shall be elected by enrolled members of the Nation in accordance with the laws and/or policies of the Nation governing elections.

(1) Members of the Board shall serve terms of three (3) years, not to exceed two (2) consecutive terms.

(2) Members shall hold office until their term expires, they resign, or they are removed/terminated from office.

(A) Although a member’s term has expired, he or she shall remain in office and serve until a successor has been sworn in by the Oneida Business Committee.

- 47 (B) A member may resign at any time verbally at a meeting or
48 by delivering written notice to the Oneida Business
49 Committee Support Office and the Board Chairperson or
50 Chairperson's designee.
51 (i) The resignation is effective upon acceptance by
52 Board motion of a member's verbal resignation or
53 upon delivery of the written notices.
- 54 (c) *Vacancies.* Vacancies on the Board shall be filled as follows:
55 (1) *Expired Terms.* Vacancies caused by the expiration of a member's
56 term shall be filled by election in accordance with the laws and/or
57 policies of the Nation governing elections.
58 (2) *Unexpired Terms.* Vacancies in unexpired terms shall be filled by
59 appointment by the Oneida Business Committee, pursuant to the
60 Boards, Committees and Commissions law, for the balance of the
61 unexpired term.
62 (A) The Board's Chairperson shall provide the Oneida Business
63 Committee recommendations on all applications for
64 appointment to fill a vacancy by the executive session in
65 which the appointment is intended to be made.
66 (B) The filling of a vacancy may be timed to correspond with the
67 pre-election activities and the needs of the Board.
- 68 (d) *Qualifications of Members.* All Board members must be:
69 (1) An enrolled member of the Nation; and
70 (2) At least eighteen (18) years of age.
- 71 (e) *Duties/Responsibilities.*
72 (1) Board members shall carry out all duties delegated by the Election
73 law, including, but not limited to:
74 (A) Ensuring that the election polling equipment and ballots are
75 maintained in a locked and secured area when not in use for
76 an election;
77 (B) Developing and adhering to standard operating procedures
78 regarding election activities and responsibilities;
79 (C) Assisting individuals with disabilities throughout the voting
80 process;
81 (D) Being in charge of all registration and election procedures;
82 (E) Upon completion of an election, making a final report on the
83 election results and posting/publishing the election results in
84 accordance with the Election law; and
85 (F) Attending all Board meetings.
- 86
- 87 1-6. *Termination or Removal.* A member of the Board found to be in violation of these bylaws
88 or the Election law may be subject to the following:
89 (a) If the Board member was elected, the Board's filing of a petition for his or
90 her removal pursuant to the Removal law and/or any other law of the Nation
91 governing removal of elected officials;

- 92 (1) A member who is removed from the Board shall be ineligible to
93 serve on the Board for three (3) years from the time he or she is
94 removed from the Board.
- 95 (b) If the Board member was appointed, the Board's recommendation to the
96 Oneida Business Committee for termination of his or her appointment
97 pursuant to the Boards, Committees and Commissions law and/or any other
98 law of the Nation governing termination of appointed officials.
- 99 (c) The filing of a petition for removal or submission of a recommendation for
100 termination shall be decided by a majority vote of the members in
101 attendance at a Board meeting of an established quorum.

- 103 1-7. *Trainings and Conferences.* Mandatory trainings/conferences for members of the Board
104 shall be as follows:
- 105 (a) Robert's Rules of Order training on an annual basis or as needed, not to
106 exceed five (5) full days per Board member; and/or
- 107 (b) Other Tribal Affiliated Election conferences/trainings as approved by the
108 Board, not to exceed three (3) full days per Board member, per term.
- 109 (c) Regardless of the number of trainings/conferences that he or she is required
110 to attend, no member of the Bard shall be eligible to receive stipends for
111 attending more than five (5) full days of mandatory trainings/conferences
112 per year.

113
114 **Article II. Officers & Non-Officer Positions**

- 115 2-1. *Officers.* The Officer positions of the Board shall consist of a Chairperson, a Vice-
116 Chairperson and a Secretary.
- 117
- 118 2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the
119 Chairperson are as follows:
- 120 (a) Call meetings and notify Board members with the assistance of the Vice-
121 Chairperson and/or Secretary;
- 122 (b) Preside over all meetings and hearings of the Board;
- 123 (c) Oversee the conduct of the election;
- 124 (d) Decide issues of voter eligibility with the assistance of the Election
125 Judge(s);
- 126 (e) Select the hearing body for applicants found to be ineligible in accordance
127 with the Election law in the event of an appeal;
- 128 (f) Dismiss the alternates and Trust Enrollment Department personnel when
129 their election day duties are complete;
- 130 (g) Post and report the results of all elections;
- 131 (h) With the assistance of the Board Secretary, submit quarterly reports to the
132 Oneida Business Committee and annual/semi-annual reports to the Oneida
133 General Tribal Council in accordance with the Boards, Committees and
134 Commissions law;
- 135 (i) Attend, or designate a Board member to attend, the Oneida Business
136 Committee meeting where the Board's quarterly report appears on the
137 agenda; and

138 (j) Carry out any other duty assigned to the Chairperson by the Board or the
139 Election law.
140

141 2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the
142 Vice-Chairperson are as follows:

143 (a) Preside over all meetings in the absence of the Chairperson and assist the
144 Chairperson in forwarding notice of meeting location, agenda, minutes and
145 materials; and

146 (b) Work with the Chairperson in all matters that concern the Board.
147

148 2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the
149 Secretary are as follows:

150 (a) Keep accurate minutes of all Board meetings; submit them to the Oneida
151 Business Committee Support Office in accordance with the Boards,
152 Committees and Commissions law; and make them available to other Board
153 members, as well as the public, per the requirements of the Nation's Open
154 Records and Open Meetings law;

155 (b) Assure that minutes are reported in the proper format;

156 (c) Oversee mail received and inform the Board of all correspondence;

157 (d) In the event that both the Chairperson and Vice-Chairperson positions
158 become vacant before the end of their terms, call Board meetings to fill the
159 vacancies and preside over those meetings for the sole purpose of
160 conducting an election of new Officers, at which point the Chairperson, or
161 Vice-Chairperson in the absence of the Chairperson, shall preside;

162 (e) Assist the Chairperson in forwarding notice of meeting location, agenda,
163 minutes and materials; and

164 (f) As applicable, the Oneida Business Committee Support Office will assist
165 the Secretary with certain administrative duties and responsibilities.
166

167 2-5. *Selection of Officers.* The Officers shall serve one (1) year terms and shall be elected by a
168 majority vote of the members in attendance at a Board meeting of an
169 established quorum.

170 (a) The Chairperson shall be elected at the first meeting of the Board.

171 (1) Upon his or her election, the Chairperson shall direct the Board to
172 elect a Vice-Chairperson and Secretary.

173 (b) Board members may be dismissed from their Officer positions by majority
174 vote of the members in attendance at a Board meeting of an established
175 quorum.

176 (c) In the event of a vacancy in the position of a Board Officer, a successor
177 shall be voted in by a majority vote of the members in attendance at a Board
178 meeting of an established quorum for the duration of the Officer's unexpired
179 term.

180 (d) Officers may hold only one (1) Officer position per Officer term.
181

182 2-6. *Ad Hoc Committee of the Board.* The Board shall create an Ad Hoc Committee for the
183 limited purpose of maintaining a pool of qualified candidates that the Board

184 may choose from, when needed, to assist with its duties relating to GTC
185 meetings. On or before the date of its creation, the Board shall develop a
186 mission statement that reflects the Ad Hoc Committee's limited purpose
187 stated herein.

- 188 (a) Members of the Ad Hoc Committee shall be appointed and reappointed by
189 the Oneida Business Committee, as recommended by the Board, for one (1)
190 year terms in accordance with the Boards, Committees and Commissions
191 law.

192 (1) Members of the Ad Hoc Committee shall not be limited in the
193 number of terms they can serve, consecutively or otherwise.

- 194 (b) Members of the Ad Hoc Committee must possess the same qualifications
195 required of Board members under the Election law and these bylaws.

- 196 (c) Upon appointment, members of the Ad Hoc Committee must take an oath
197 during a regular or special meeting of the Oneida Business Committee.

198 (1) Members of the Ad Hoc Committee shall be subject to the applicable
199 portions of section 4-1 and all of sections 4-2 through 4-5 of these
200 bylaws to the same extent as appointed members of the Board,
201 including the provisions relating to enforcement and discipline.

- 202 (d) Members of the Ad Hoc Committee shall receive a stipend of fifty (50)
203 dollars for each GTC meeting that:

204 (1) The Board asked them to attend to assist with its duties relating to
205 GTC meetings;

206 (2) They did attend for the entirety of the meeting; and

207 (3) They did assist with the Board's duties relating to GTC meetings.

- 208 (e) Dissolution of the Ad Hoc Committee shall be in accordance with the
209 Boards, Committees and Commissions law.

210
211 2-7. *Non-Officer Positions.* The Board shall identify Board members who shall serve in the non-
212 Officer positions of tellers, Election Judges and clerks in advance of an
213 election.

- 214 (a) Non-Officers shall be identified in accordance with the Election law.
215

216 2-8. *Responsibilities of the Election Judge.* The duties, responsibilities and limitations of the
217 Election Judge are as follows:

- 218 (a) Inform and advise the Chairperson of all aspects of elections conducted
219 under the Election law;

- 220 (b) In accordance with the Election law, meet with the Trust Enrollment
221 Department personnel who are registering voters to answer questions
222 arising over voter eligibility; and

223 (1) When disputes among Board members, or between members of the
224 Nation and Board members, or any controversy regarding voter
225 eligibility arise, the Election Judge shall assist the Chairperson in
226 making a determination.

- 227 (c) Ensure that all ballots of voters whose eligibility may be in question remain
228 confidential.
229

- 230 2-9. *Responsibilities of the Teller.* The duties, responsibilities and limitations of the teller are
231 as follows:
232 (a) Collect and keep safe all ballots until the election is complete, as determined
233 by the Election law; and
234 (b) Assist the Chairperson as directed in conducting the election.
235
- 236 2-10. *Responsibilities of the Clerk.* The duties, responsibilities and limitations of the clerk are as
237 follows:
238 (a) Implement the requirements of identifying and registering all voters and
239 determining voter eligibility;
240 (b) Work in conjunction with the Trust Enrollment Department personnel in the
241 registration process;
242 (c) Assist the Chairperson as directed in conducting the election; and
243 (d) Not be currently employed in the Trust Enrollment Department.
244
- 245 2-11. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Nation’s policies and
246 procedures regarding purchasing and sign-off authority.
247 (a) Levels of budgetary sign-off authority for the Board shall be as set forth
248 in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*
249 *Policies and Procedures*, for Area Directors/Enterprise Directors.
250 (1) All Board Officers have sign-off authority and two (2) Officers shall
251 be required to sign-off on all budgetary requests, including stipends
252 and expenses.
253 (b) The Board shall approve a member’s request to travel on behalf of
254 the Board by a majority vote of the members in attendance at a
255 regular or emergency Board meeting of an established quorum.
256
- 257 2-12. *Personnel.* The Board shall not have the authority to hire personnel for the benefit of
258 the Board.
259

260 **Article III. Meetings**

- 261 3-1. *Regular Meetings.* The regular meetings of the Board shall be held every second (2nd)
262 Monday of the month, commencing at 5:00 p.m., at the Ridgeview Plaza,
263 or another location as suggested at the first meeting of the Board, and may
264 change from time-to-time as determined by the Board but shall be within
265 the Reservation boundaries unless noticed to all members in writing and,
266 along with the public, in accordance with governing law, including, but not
267 limited to, the Nation’s Open Records and Open Meetings law, prior to
268 designating the meeting location.
269 (a) The regular meeting date, time and location may change from time-to-time
270 as determined by a majority vote of the members in attendance at a Board
271 meeting of an established quorum upon notice to all members in writing
272 and, along with the public, in accordance with governing law, including, but
273 not limited to, the Nation’s Open Records and Open Meetings law, prior to
274 the implementation of a new date, time and/or location.

275 (b) Notice of meeting location, agenda, minutes and materials shall be
276 forwarded by the Chairperson with the assistance of the Vice-Chairperson
277 and/or Secretary.

278 (c) Meetings shall be run in accordance with Robert’s Rules of Order.

279

280 3-2. *Emergency Meetings.* An emergency meeting may be called by the Chairperson when time
281 sensitive issues require immediate action.

282 (a) The Chairperson or Chairperson’s designee shall provide advance notice to
283 all Board members of an emergency meeting by telephone call, as well as
284 email communication sent to the official Oneida Nation email address
285 provided to each member to conduct business electronically on behalf of the
286 Board, and shall further provide notice to all members, as well as the public,
287 in accordance with the Nation’s Open Records and Open Meetings law.

288 (b) Within seventy-two (72) hours after an emergency meeting, the Board
289 Chairperson or Chairperson’s designee shall provide the Nation’s Secretary
290 with notice of the emergency meeting, the reason for the emergency
291 meeting, and an explanation as to why the matter could not wait until the
292 next regular meeting.

293

294 3-3. *Joint Meetings.* Joint Meetings shall not be held.

295

296 3-4. *Quorum.* A quorum shall consist of a majority of current Board members, at least one
297 (1) of which shall include the Chairperson, Vice-Chairperson or Secretary;
298 provided, the Secretary is presiding over the meeting in accordance with
299 section 2-4(d) of these bylaws.

300

301 3-5. *Order of Business.* The order of business, as far as applicable, is:

- 302 (a) Call to Order
- 303 (b) Adopt the Agenda
- 304 (c) Approval of Minutes
- 305 (d) Old Business
- 306 (e) New Business
- 307 (f) Other Concerns/Announcements
- 308 (g) Executive Session
- 309 (h) Adjournment

310

311 3-6. *Voting.* Voting shall be in accordance with a majority vote of the Board members
312 present at a meeting of an established quorum.

313 (a) All members of the Board shall have one (1) equal vote.

314 (b) The Chairperson or Vice-Chairperson, when presiding in the absence of the
315 Chairperson, and Secretary, when presiding in accordance with section 2-4
316 (d) of these bylaws, shall only vote when a tie needs to be broken.

317 (c) E-polls are permitted so long as conducted in accordance with the Boards,
318 Committees and Commissions law.

319 (1) The Vice-Chairperson, in the absence or discretion of the Chair-
320 person, and the Secretary, in the absence of the Vice-Chairperson or

321 discretion of the Chairperson, shall be responsible for conducting e-
322 polls.
323

324 **Article IV. Expectations**

325 4-1. *Behavior of Members.* Members of the Board are expected to behave as follows:

326 (a) They shall not miss three (3) consecutive unexcused meetings within a
327 twelve (12) month period.

328 (1) A member who fails to notify a Board Officer, in writing, of his or
329 her absence at least thirty (30) minutes prior to the meeting in which
330 he or she will be absent from shall be deemed unexcused.

331 (b) They shall follow the Election Board's Code of Conduct.

332 (c) They shall not speak or act in the name of the Board except when, by
333 majority vote of the members present at a meeting of an established quorum,
334 the Board has specifically delegated that responsibility.

335 (d) *Enforcement.* Any member of the Board found to be in violation of these
336 behaviors/expectations or any other section of these bylaws may be subject
337 to:

338 (1) Sanctions and penalties in accordance with any laws or policies of
339 the Nation governing sanctions and/or penalties of officials.

340 (2) If the Board member was elected, the Board's filing of a petition for
341 his or her removal pursuant to the Removal law and/or any other
342 laws or policies of the Nation governing the removal of elected
343 officials.

344 (3) If the Board member was appointed, the Board's recommendation
345 to the Oneida Business Committee for termination of his or her
346 appointment pursuant to the Boards, Committees and Commissions
347 law and/or any other laws or policies of the Nation governing the
348 termination of appointed officials.

349 (4) The filing of a petition for removal or recommendation for
350 termination shall be decided by a majority vote of the members in
351 attendance at a Board meeting of an established quorum.
352

353 4-2. *Prohibition of Violence.* Any violent intentional act committed by a member of the Board
354 that inflicts, attempts to inflict or threatens to inflict emotional or bodily
355 harm on another person, or damage to property, when acting in his or her
356 official capacity is strictly prohibited.
357

358 4-3. *Drug and Alcohol Use.* Members of the Board are prohibited from using alcohol and/or
359 illegal drugs when acting in their official capacity.
360

361 4-4. *Social Media.* Social media shall be used in accordance with the members' oath of office,
362 as well as any laws or policies of the Nation governing social media.

363 (a) No member of the Board shall post any Election Board information on his
364 or her Facebook page or other social media outlets.
365

- 366 4-5. *Conflict of Interest.* Members of the Board shall abide by all applicable laws of the Nation
367 governing conflicts of interest.
368 (a) A Board member shall recuse himself or herself from participating as a
369 Board member in any pre-election, election day, or post-election activities
370 when:
371 (1) He or she is a petitioner, applicant or candidate in any election;
372 (2) A petitioner, applicant, or candidate in any election is an immediate
373 family member of the Board member; or
374 (A) Immediate family member shall be as defined within the
375 Nation's Conflict of Interest law.
376 (3) There is otherwise a conflict of interest.
377 (b) Unless otherwise provided in any governing laws of the Nation relating to
378 conflicts of interest, any conflicts will be handled by recommendation of
379 a majority vote of the members in attendance at a Board meeting of an
380 established quorum.
381

382 **Article V. Stipends and Compensation**

- 383 5-1. *Stipends.* Board members are eligible for the following stipends as set forth in and
384 subject to these bylaws, the Boards, Committees and Commissions law, and
385 resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D
386 Boards, Committees and Commissions Law Stipends, as may be further
387 amended from time-to-time hereafter:
388 (a) Two (2) monthly meeting stipends;
389 (b) Stipends for conducting hearings on appeals of eligibility determinations;
390 (c) Stipends for attending Judiciary hearings;
391 (1) A member of the Board may only receive a stipend for attending an
392 Oneida Judiciary hearing if that member's attendance was required
393 by official subpoena.
394 (d) A stipend for attendance at each full day of a training/conference that is
395 required by law, bylaws or resolution.
396 (e) An hourly stipend for services that he or she provides during an election,
397 including, but not limited to, managing the polling site, recounts and lot
398 drawings; and
399 (f) A stipend for attending and providing service at an Oneida General Tribal
400 Council meeting of the Nation.
401

- 402 5-2. *Compensation.* Besides the travel, per diem and business expense reimbursement
403 authorized by the Boards, Committees and Commissions law, Board
404 members shall not be eligible for any other form of compensation for duties/
405 activities they perform on behalf of the Board.
406

407 **Article VI. Records and Reporting**

- 408 6-1. *Agenda Items.* Agenda items shall be maintained in a format provided by the Oneida
409 Business Committee Support Office.
410

- 411 6-2. *Minutes.* Minutes of the Board shall be typed in a format designed by the Oneida
412 Business Committee Support Office to generate the most informative record
413 of the Board’s meetings, including a summary of the actions taken by the
414 Board during its meetings.
- 415 (a) Minutes shall be submitted to the Oneida Business Committee Support
416 Office within five (5) days of the meeting date.
417
- 418 6-3. *Attachments.* Any handouts, reports, or documents shall be turned in to be filed with the
419 minutes and agenda for the meeting in which they were presented.
- 420 (a) All handouts, reports, and documents shall be kept in electronic format in
421 the Board’s shared folder.
422
- 423 6-4. *Oneida Business Committee Liaison.* The Board shall regularly communicate with the
424 Oneida Business Committee member who is its designated liaison.
- 425 (a) The frequency and method of communication shall be as agreed upon by
426 the Board and the liaison, but not less than that required in any law or policy
427 on reporting developed by the Oneida Business Committee or Oneida
428 General Tribal Council.
429
- 430 6-5. *Audio Recordings.* All meetings of the Board shall be audio recorded using a recording
431 device supplied by the Oneida Business Committee Support Office.
- 432 (a) Audio recordings shall be submitted to the Oneida Business Committee
433 Support Office by the Chairperson or Chairperson’s designee for purposes
434 of maintaining in accordance with the applicable laws of the Nation.
- 435 (b) *Exception.* Audio recordings of executive session portions of a Board
436 meeting shall not be required.
437

438 **Article VII. Amendments**

- 439 7-1. *Amendments to Bylaws.* Amendments shall be made to these bylaws by a majority vote of
440 the members present at a regular Board meeting of an established quorum,
441 provided that a written notice of proposed amendments was made at a prior
442 regular meeting.
- 443 (a) Amendments to these bylaws must conform to the requirements of the
444 Boards, Committees and Commissions law, as well as any other policy of
445 the Nation.
- 446 (b) Amendments to these bylaws must be approved by the Oneida Business
447 Committee before implementation.
- 448 (c) The Board shall review these bylaws from time to time as needed, but no
449 less than on an annual basis.
450



Oneida Election Board Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: Kirby Metoxen	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These bylaws amendments comply with the Boards, Committees and Commissions law [1 O.C. 105]. The Oneida Business Committee (OBC) directed that all boards, committees and commissions of the Nation; excluding the OBC or standing committees of the OBC and the Nation’s corporations, amend their bylaws to comply with the requirements established by the Boards, Committees and Commissions law [Resolution BC-09-26-18-C]. Additional information and requirements included in these bylaws beyond what is required in the Boards, Committees and Commissions law is not prohibited [1 O.C. 105.10].		
Intent of the Bylaws	The bylaws provide a framework for the operation and management of the Oneida Election Board (Board) to govern the standard procedures regarding the way the Board conducts its affairs, including: the election and appointment of persons to the Board, the membership qualifications, duties and responsibilities of both members and Officers, terms and filling vacancies of members, selection of Officers, establishment of expectations of members, maintenance of official records, stipends, removal process, required training, and how the bylaws are amended.		
Purpose	The Board was created to carry out the provisions of the Election law [1 O.C. 102.1-1] as established by the Constitution of the Oneida Nation [Oneida Nation Constitution, Article III, Section 5]. The purpose of the Board is to conduct the Nation’s elections in compliance with the laws of the Nation and assist with voting at General Tribal Council (GTC) meetings [Proposed Bylaws 1-3(a)].		
Related Legislation	Oneida Nation Constitution, Election law, Boards, Committees and Commissions law, Removal Law, Social Media Policy, Computer Resources Ordinance, Travel and Expense Policy, Conflict of Interest law, Open Records and Open Meetings law		
Enforcement/Due Process	Removal from an elected position on the Board follows the Removal Law [1 O.C. 104] and Board members appointed by the OBC to serve an unexpired vacant position will be subject to the Boards, Committees and Commissions law regarding the termination of an appointment [1 O.C. 105.6(c)]. The Board included behavioral expectations that if not followed may result in a petition for removal [1 O.C. 105] or a recommendation to the OBC to terminate an appointment [1 O.C. 105.6(c)] and [Proposed Bylaws 4-1(d)].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

1 **SECTION 2. BACKGROUND**

- 2 A. The Board bylaws amendments were added to the Active Files List on September 6, 2017, with Kirby
3 Metoxen as the sponsor.
- 4 B. A previous version of the Election Board was established by resolution GTC-7-7-1939.
- 5 C. Ordinance No. II - Elections was adopted by resolution GTC-7-12-1939. This ordinance was drafted
6 containing the election requirements set by GTC including provisions related to the appointed Election
7 Board. The first six Election Board members were appointed by the OBC (Executive Committee) on
8 July 12, 1939.
- 9 D. The Election Ordinance was adopted by GTC motion on June 19, 1993. This ordinance contains
10 provisions related to the Election Board and includes duties and requirements of membership including
11 the election of Board members. The Election Ordinance has been amended many times most currently
12 as the Election law on April 23, 2017.
- 13 E. The current Board bylaws were approved by the OBC on February 25, 2009.
- 14 F. The Election law has been amended three additional times (GTC-01-04-10-A, BC-02-25-15-C and
15 GTC-04-23-17-A) since the current Board bylaws were approved.
- 16

17 **SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW**

- 18 A. The Board bylaws comply with the Boards, Committees and Commissions law and the Election law.
- 19 B. The Board bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-
20 26-18-D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
21 amounts and eligibility requirements of stipends.
- 22

23 **SECTION 4. AMENDMENTS**

24 The Board bylaws were expanded to include duties delegated by the Election law. This section details the
25 changes to the bylaws from the previously adopted bylaws.

26 **A. ARTICLE I. MEMBERSHIP**

- 27 a. The number of members changed from twelve (12) to nine (9) with a sufficient number of
28 alternate members as recommended by the Board and appointed by the OBC to assist with
29 election day and pre-election activities [*Proposed Bylaws 1-5(a)*].
- 30 b. A Board member whose term has expired will now remain in office until a successor has
31 been sworn in by the OBC [*Proposed Bylaws 1-5(b)(2)(A)*] which is optional under the
32 Boards, Committees and Commissions law [*1 O.C. 105.6-2(a)(1)*].
- 33 c. The resignation process has changed in accordance with the Boards, Committees and
34 Commissions law [*1 O.C. 105.6-2(d)*]. Resignations are now accepted:
- 35 • Verbally and accepted by motion at a meeting; or
 - 36 • By delivering a written resignation to the Business Committee Support Office
37 (BCSO) and the Board Chairperson or Chairperson’s designee [*Proposed*
38 *Bylaws 1-5(b)(2)(B)*].
- 39 d. Unexpired terms will be filled in accordance with the Boards, Committees and
40 Commissions law [*Proposed Bylaws 1-5(c)(2)*] [*1 O.C. 105.6*].
- 41 e. A provision was added that the Chairperson will make a recommendation to fill vacancies
42 on behalf of the Board [*Proposed Bylaws 1-5(c)(2)(A)*].
- 43 f. A qualification of at least 18 years of age was added to the bylaws [*Proposed Bylaws 1-
44 5(d)(2)*] in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-
45 3(a)(5)(D)(i)*].
- 46 g. The duties and responsibilities of members were expanded to include duties delegated by
47 the Election law [*Proposed Bylaws 1-5(e)*].
- 48 h. Termination and Removal. The removal of an elected member or recommendation that the
49 OBC terminate an appointed member complies with the Boards, Committees and
50 Commissions law [*Proposed Bylaws 1-6*] [*1 O.C. 105.10-3(a)(6)*].

- The Removal Law will be followed for removal of elected members [1 O.C. 104] and the Boards, Committees and Commissions law will be followed for termination of appointed members [1 O.C. 105.6-2(c)]; following the process in Article IV.4-1(d) of the proposed bylaws.
 - A removal petition or a recommendation for termination of appointment must be by majority vote of the Board members in attendance at a regular or emergency meeting with an established quorum [Proposed Bylaws 1-6(c)].
- i. Mandatory trainings and conferences were added in accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(a)(7)] with specific training areas and requirements including [Proposed Bylaws 1-7]:
- Not more than five (5) full days of training per member annually or as needed for Robert’s Rules of Order, and
 - Not more than three (3) days of training per member per term for other Tribal affiliated election conferences.
 - Regardless of the number of required trainings/conferences Board members are required to attend; members are only eligible for up to five (5) stipends for full days of trainings/conferences attended per year.

B. ARTICLE II. OFFICERS AND NON-OFFICERS

- a. Additional duties were added to the Chairperson, Vice-Chairperson and Secretary positions in accordance with the Election law [1 O.C. 102.4-10] and the Boards, Committees and Commissions law [1 O.C. 105.12-3]:
- The Chairperson will submit reports to the OBC and the GTC; with the assistance of the Secretary [Proposed Bylaws 2-2(h)].
 - The Chairperson, or Board member designee, will attend the OBC meeting when the Board’s quarterly report appears on the agenda [Proposed Bylaws 2-2(g)].
 - The Secretary will submit minutes to the BCSO and make them available to the Board and the public [Proposed Bylaws 2-4(a)] in accordance with the Boards, Committees and Commissions law [1 O.C. 105.12-1] and the Open Records and Open Meetings law [1 O.C. 107.6-3].
 - A provision was added that if both the Chairperson and the Vice-Chairperson positions become vacant before the end of their terms; the Secretary shall call and preside over a meeting until a new Chairperson and Vice-Chairperson is elected at which point the Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside [Proposed Bylaws 2-4(d)]. In this instance the Secretary’s presence can be used to constitute quorum [Proposed Bylaws 3-4].
- b. The BCSO was added to assist the Board Secretary with administrative duties [Proposed Bylaws 2-4(f)].
- c. A provision was added that Board members may be dismissed from their Officer positions and a new Officer selected; both by a majority vote of members in attendance at a Board meeting with an established quorum [Proposed Bylaws 2-5(b) and (c)].
- d. A provision was added that Board members may only hold one Officer position per Officer term [Proposed Bylaws 2-5(d)].
- e. Ad Hoc Committee members were added to maintain a pool of qualified applicants to assist with duties related to GTC meetings [Proposed Bylaws 2-6]. Ad Hoc Committee members shall:
- Be appointed by the OBC for one (1) year terms with no limitations on the number of terms served.

- 101 • Be required to take an oath of office and abide by all requirements of regular
- 102 Board members.
- 103 • Be required to possess the same qualifications as members of the Board.
- 104 • Receive a stipend in the amount of fifty (50) dollars for duties performed at
- 105 the direction of the Board if all attendance and participation requirements are
- 106 met.
- 107 • The dissolution of the Ad Hoc Committee will follow the Boards, Committees
- 108 and Commissions law [1 O.C. 105.17-1].
- 109 f. Non-Officer Board member positions of Election Judge, Teller and Clerk were added with
- 110 duty descriptions and shall be identified in accordance with the Election law [Proposed
- 111 Bylaws 2-8 through 2-10] [1 O.C. 102.4-10].
- 112 g. The budgetary and sign-off authority and travel section is new to these bylaws based on
- 113 requirements in the Boards, Committees and Commissions law [1 O.C. 105.10-3(b)(6)].
- 114 • The Board will use levels for budgetary sign-off authority that are as set forth
- 115 in the Oneida Tribe of Indians of Wisconsin Purchasing Policies and
- 116 Procedures Manuel for Area Directors/Enterprise Directors. All Board
- 117 Officers shall have sign-off authority and two (2) Officers must sign-off on
- 118 budgetary requests, including stipends and expenses [Proposed Bylaws 2-11].
- 119 i. Although not applicable to the Board; the Board will follow
- 120 the budgetary sign-off levels dictated by the Oneida Tribe of
- 121 Indians of Wisconsin Purchasing Policies and Procedures
- 122 Manuel for Area Directors/Enterprise Directors, page 217
- 123 which includes the following levels of sign-off authority:
- 124 1. Budgeted items with three bids for items between
- 125 \$3,000 and \$10,000;
- 126 2. Unbudgeted items between \$1,000 and \$5,000; and
- 127 3. Budgeted but sole source items between \$1,000 and
- 128 \$5,000.
- 129 • All travel must be authorized by two (2) Officer positions in accordance with
- 130 the Travel and Expense Policy [2 O.C. 219.4-2]. All travel must be approved
- 131 through majority vote of a quorum of the Board in attendance at a regular or
- 132 emergency Board meeting [Proposed Bylaws 2-11(b)] in accordance with the
- 133 Boards, Committees and Commissions law [1 O.C. 105.10-3(b)(6)(B)]. Board
- 134 members may travel in the Nation's vehicles when certified and must follow
- 135 the Vehicle Driver Certification and Fleet Management law [2 O.C. 210].

137 C. ARTICLE III. MEETINGS

- 138 a. Emergency meetings will be noticed via official email and telephone call and in accordance
- 139 with the Open Records and Open Meetings law [Proposed Bylaws 3-2(a)] and [1 O.C.
- 140 107.15-2(c)].
- 141 b. A provision was added per the Boards, Committees and Commissions law that the
- 142 Chairperson or Chairperson's designee will notify the Nation's Secretary within seventy-
- 143 two (72) hours of holding an emergency meeting with notice of the meeting, the reason for
- 144 the emergency meeting, and an explanation of why the matter could not wait for a regular
- 145 meeting [Proposed Bylaws 3-2(b)] in accordance with the Boards, Committees and
- 146 Commissions law [1 O.C. 105.10-3(c)(2)(A)].
- 147 c. Special meetings were removed, and clarification that no joint meetings with the OBC will
- 148 be held was added to the bylaws [Proposed Bylaws 3-3] in accordance with the Boards,
- 149 Committees and Commissions law [1 O.C. 105.10-3(c)].

- 150 d. The Secretary position was added to create a quorum when a Chairperson and Vice-
151 Chairperson are being elected in accordance with section 2-4(d) of the proposed bylaws
152 [*Proposed Bylaws 3-4*].
- 153 e. A provision was added that the Officer position chairing the meeting can only vote to break
154 a tie [*Proposed Bylaws 3-6(b)*] [*1 O.C. 105.10-3(c)(6)(B)*].
- 155 f. E-polls were added and will be conducted by the Chairperson or the Vice-Chairperson or
156 Secretary in the Chairperson’s absence or discretion [*Proposed Bylaws 3-6(c)*] [*1 O.C.*
157 *105.11*].

158
159 D. ARTICLE IV. EXPECTATIONS

160 This section is new to these bylaws based on the requirements established in the Boards, Committees
161 and Commissions law [*1 O.C. 105.10-3(d)*].

- 162 a. Behavioral requirements were added [*Proposed Bylaws 4-1*]. A requirement to notify a
163 Board Officer in writing thirty (30) minutes before a pending absence or the absence is
164 deemed unexcused [*Proposed Bylaws 4-1(a)(1)*].
- 165 b. Enforcement of behavioral expectations include sanctions and/or penalties according to
166 any applicable law of the Nation, removal petition if elected and recommendation from the
167 Board for termination of appointment by the OBC both by majority vote of the Board
168 [*Proposed Bylaws 4-1(d)*]. This complies with the Boards, Committees and Commissions
169 law [*1 O.C. 105.10-3(d)(1)*].
- Removal petitions and recommendations to the OBC to terminate a member’s
171 appointment must be decided by a majority vote of the Board of members present
172 in a meeting with an established quorum [*Proposed Bylaws 4-1(d)(4)*].
- 173 c. Intentional acts of violence that inflicts, attempts to inflict or threatens to inflict emotional
174 or bodily harm or damage to property are prohibited and violations could result in a
175 termination from the Board [*Proposed Bylaws 4-2*] in compliance with the Boards,
176 Committees and Commissions law [*1 O.C. 105.10-3(d)(2)*].
- 177 d. Drug and alcohol use by a Board member when acting in an official capacity is prohibited
178 [*Proposed Bylaws 4-3*] in compliance with the Boards, Committees and Commissions law
179 [*1 O.C. 105.10-3(d)(3)*].
- 180 e. Board members are required to follow the laws and policies of the Nation as well as their
181 oath of office with respect to Social Media. Board members are prohibited from posting
182 Board information on his or her Facebook page or other social media outlet [*Proposed*
183 *Bylaws 4-4*]. This complies with the Boards, Committees and Commissions law which
184 allows for added detail related to restrictions of Board information on social media [*1 O.C.*
185 *105.10-3(d)(4)*].
- 186 f. The bylaws include a provision [*Proposed Bylaws 4-5*] that requires the Board to abide by
187 Nation’s Conflict of Interest law [*2 O.C. 217*] and the Boards, Committees and
188 Commissions law including disclosure of conflicts of interest annually [*1 O.C. 105.10-*
189 *3(d)(5) and 105.15*]. The Board bylaws include a provision that requires a conflicted
190 member to recuse himself or herself from participation in Board activities if they or an
191 immediate family member are a petitioner, applicant or candidate in an election or for any
192 other conflict [*Proposed Bylaws 4-5(a)*]. Conflicts will be decided by majority vote of the
193 Board in attendance at a meeting with an established quorum unless a law of the Nation
194 dictates how conflicts are addressed [*Proposed Bylaws 4-5(b)*]. This aligns with the
195 Conflict of Interest law of the Nation which allows for entities to outline further prohibited
196 activities resulting in conflicts of interest [*2 O.C. 217.7-2*].
- i. The current bylaws contain a term and definition for “related to” and this
198 term and definition was removed [*Current Bylaws, see footnote on page*
199 *3*]. The term for “immediate family member” from the Conflict of Interest
200 law will be used as follows:

201 1. “Immediate family member” means an individual’s husband,
202 wife, mother, father, step mother, step father, son, daughter, step
203 son, step daughter, brother, sister, step brother, step sister,
204 grandparent, grandchild, mother-in-law, father-in-law, daughter-
205 in-law, son-in-law, brother-in-law or sister-in-law and any of
206 these relations attained through legal adoption” [2 O.C. 217.3-
207 1(g)].
208

209 E. ARTICLE V. STIPENDS AND COMPENSATION

210 a. This section provides a list of eligible stipends members of the Board are eligible to receive
211 [Proposed Bylaws 5-1]. The Boards, Committees and Commissions law dictates that a full
212 day of training is required to receive a training stipend [1 O.C. 105.13-8(a)]. This section
213 complies with Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-18-D
214 Boards, Committees and Commissions Law Stipends”.
215 b. The Board is not eligible for any other type of compensation except travel, per diem and
216 business expense reimbursement in accordance with the Boards, Committees and
217 Commissions law [Proposed Bylaws 5-2] [1 O.C. 105.13-9].
218

219 F. ARTICLE VI. RECORDS AND REPORTING

220 a. The Boards, Committees and Commissions law established added requirements related to
221 records and reporting [1 O.C. 105.10-3(f)].
222 • The Board will use the agenda format provided by the BCSO [Proposed Bylaws
223 6-1]. This complies with the Boards, Committees and Commissions law [1 O.C.
224 105.10-3(f)(1)].
225 • The Board’s minutes will be typed in a format provided by the BCSO, will
226 summarize actions taken and will be submitted to the BCSO within five (5) days
227 of the meeting [Proposed Bylaws 6-2]. This meets the requirements established by
228 the Boards, Committees and Commissions law [1 O.C. 105.10-(f)(2)].
229 • All attachments will be attached to and maintained with the meeting minutes and
230 agenda in which they were presented and kept in electronic format in the Board’s
231 shared folder [Proposed Bylaws 6-3]. This meets requirements established by the
232 Boards, Committees and Commissions law [1 O.C. 105.10-3(f)(3)]. Although not
233 mentioned; packets and meeting materials will be available to the public in
234 accordance with the Open Records and Open Meetings law [1 O.C. 107.7-2] and
235 the Chairperson will be the default legal custodian of all records [1. O.C. 107.6-
236 3].
237 • The Board will communicate regularly with the assigned OBC liaison [Proposed
238 Bylaws 6-4].
239 • A requirement was added that the Board will audio record all meetings with a
240 device supplied by the BCSO and submit all audio files to the BCSO for
241 maintenance. Executive session is not required to be recorded [Proposed Bylaws
242 6-5]. This complies with the Boards, Committees and Commissions law [1 O.C.
243 105.10-3(f)(5)] and the Open Records and Open Meetings law [1 O.C. 107.7-3].
244

245 G. ARTICLE VII. AMENDMENTS

246 a. A provision was added requiring that amendments follow the Boards, Committees and
247 Commissions law and any other policy of the Nation [1 O.C. 105.10-3(g)] and that the
248 bylaws be reviewed as needed but no less than annually [Proposed Bylaws 7-1]. The
249 current bylaws require a review of the bylaws each time a vacancy is filled [Current Bylaws
250 5-1].
251

252 **SECTION 5. RELATED LEGISLATION**

253 There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a detailed list of laws
254 that establish duties and requirements of the Election Board in addition to laws referenced in the bylaws.

255 A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows
256 for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida*
257 *Nation Constitution, Article IV, Section 1(g)*]. The Constitution requires the Nation to enact the
258 necessary rules and regulations governing elections of tribal officials [*Oneida Nation Constitution,*
259 *Article III, Section 5*]. There are no conflicts between these bylaws and the Oneida Nation
260 Constitution.
261

262 B. Election [1 O.C. 102]. The Election law governs the procedures for the conduct of orderly elections
263 of the Nation, including pre-election activities such as caucuses and nominations [*1 O.C. 102.1-1*].
264 The law governs all procedures used in the election process [*1 O.C. 102.1-2*]. The law creates the
265 Board, defines their role, contains requirements related to how the Board functions, establishes
266 qualifications of Board members and specific duties, establishes terms of member as well as the
267 election procedures and reporting requirements [*1 O.C. 102.4*]. The Board is elected by the General
268 Tribal Council [*Proposed Bylaws 1-5(b)*]. The proposed bylaws comply with the requirements
269 established in the Election law and there are no conflicts.
270

271 C. Boards, Committees and Commissions [1 O.C. 105]. This law establishes all requirements related
272 to elected and appointed boards, committees and commissions of the Nation. The law governs the
273 procedures regarding the appointment and election of persons to boards, committees and
274 commissions, creation of bylaws, maintenance of official records, compensation, and other items
275 related to boards, committees and commissions. The Board is elected by the Nation's qualified
276 voting membership and vacancies are appointed by the OBC for the duration of the unexpired term
277 [*Proposed Bylaws 1-5(b) and (c)*]. The requirements for entity bylaws are contained in this law as
278 well as a requirement that all existing entities of the Nation comply with the format detailed in the
279 law and present the bylaws for adoption by the OBC within a reasonable timeframe [*1 O.C. 105.10-*
280 *3*]. The proposed bylaws comply with and there are no conflicts with the Boards, Committees and
281 Commissions law.
282

283 D. Removal Law [1 O.C. 104]. This law governs the removal process related to board, committee
284 and commission members that are elected by the qualified voting membership of the Nation. This
285 law contains due process measures related to specific causes for removal, petition requirements,
286 preliminary review by the Judiciary, a hearing that includes potential witnesses as well as a burden
287 of proof by a person seeking the removal by clear and convincing evidence that ground(s) for
288 removal exist and a Special GTC Meeting that requires a 2/3 affirmative majority vote. The Board
289 bylaws include additional behavioral expectations that if not followed may result in a petition for
290 removal as decided by majority vote of the Board [*Proposed Bylaws 4-1(d)(2) and (4)*]. This aligns
291 with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(d)*]. The proposed bylaws
292 comply and there are no conflicts with the Removal Law.
293

294 E. Social Media Policy [2 O.C. 218]. This law applies to the Board and regulates the Nation's social
295 media accounts including how content is managed and who has authority to post on social media
296 on behalf of the Nation. Boards, committees and commissions of the Nation must register social
297 media accounts with the Nation's Secretary's Office to include specific information related to
298 access to the account, acknowledgment and compliance with the Computer Resources Ordinance
299 and this policy, use a Nation issued email address, and ensure all content complies with all
300 applicable laws of the Nation, state or federal laws. The bylaws identify that the Board must
301 comply with the Social Media Policy and their oath of office [*Proposed Bylaws 4-4*] in accordance

302 with the Boards, Committees and Commissions law [1 O.C. 105.10-3(d)(4)]. Additionally, the
303 proposed bylaws include a provision that no member of the Board shall post any Board information
304 on his or her Facebook or other social media outlets [Proposed Bylaws 4-4(a)]. The proposed
305 bylaws comply with and there are no conflicts with the Social Media Policy.
306

307 F. Computer Resources Ordinance [2 O.C. 215]. Board members are considered users under this law
308 which regulates and ensures the appropriate use of the Nation's computer resources. There are no
309 conflicts between the proposed bylaws and the Computer Resources Ordinance. Members of the
310 board must sign an acknowledgment form indicating notice of the Nation's applicable computer
311 and media related laws according to the Boards, Committees and Commissions law [1 O.C. 105.14-
312 3(b)]. The proposed bylaws comply and there are no conflicts with the Computer Resources
313 Ordinance.
314

315 G. Travel and Expense Policy [2 O.C. 219]. Members of the Board are eligible to be reimbursed for
316 travel and per diem to attend a conference or training in accordance with this policy. All travel
317 must be authorized by the two (2) Officers [Proposed Bylaws 2-11(a)(1)] in accordance with the
318 Travel and Expense Policy [2 O.C. 219.4-2]. The Board will approve all board travel by majority
319 vote of the board [Proposed Bylaws 2-11(b)] in accordance with the Boards, Committees and
320 Commissions law [1 O.C. 105.10-3(b)(6)(B)]. The proposed bylaws comply and there are no
321 conflicts with the Travel and Expense Policy.
322

323 H. Conflict of Interest [2 O.C. 217]. This law applies to the Board and establishes specific limitations
324 to which information or materials that are confidential or may be used by a competitor of the
325 Nation's enterprises or interests may be used to protect the interests of the Nation. The Boards,
326 Committees and Commissions law establishes that amended bylaws require members to disclose
327 potential or real conflicts annually [1 O.C. 105.10-3(d)(5) and 105.15]. The Board bylaws include
328 a provision that requires a conflicted member to recuse himself or herself from participation in
329 Board activities if they or an immediate family member are a petitioner, applicant or candidate in
330 an election or for any other conflict [Proposed Bylaws 4-5(a)]. Conflicts will be decided by
331 majority vote of the Board unless a different process is dictated by law or policy of the Nation
332 [Proposed Bylaws 4-5(b)]. This aligns with the Conflict of Interest law of the Nation which allows
333 for entities to outline further prohibited activities resulting in conflicts of interest [2 O.C. 217.7-2].
334 Penalties for failure to disclose conflicts of interest include a removal petition in accordance with
335 the Removal Law for elected members, termination of appointment in accordance with the Boards,
336 Committees and Commissions law for appointed members, and enforcement of any penalties in
337 accordance with the laws of the Nation [2 O.C. 217.6-2 and 6-3]. The proposed bylaws comply
338 and there are no conflicts with the Conflict of Interest law.
339

340 I. Open Records and Open Meetings [1 O.C. 107]. The Board must comply with the Open Records
341 and Open Meetings law. This law details how records must be maintained and made available to
342 the public and specifies that meetings are open to the public unless specific criteria are met which
343 allow the meetings to be closed [1 O.C. 107.15 and 107.17]. Public notice of meetings is also
344 required by this law [1 O.C. 107.15-1]. The Board bylaws do not delegate the maintenance of the
345 records aside from the Secretary's responsibility for the minutes [Proposed Bylaws 2-4(a)].
346 Maintenance of Board packets including attachments defaults to the Chairperson under this law [1
347 O.C. 107.6-3]. Board meetings are open to the public except portions that meet the exceptions in
348 this law related to the discussion of personnel matters or contracts and deemed confidential in
349 accordance with this law [1 O.C. 107.12-2 and 107.17]. Meeting packets and backup materials
350 will be made available to the public in accordance with this law which states that any requestor has
351 the right make or receive a copy of a public record [1 O.C. 107.7-2]. The proposed bylaws comply
352 and there are no conflicts with the Open Records and Open Meetings law.

- 353 J. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities
354 [2 O.C. 210.3-1(g)] and individual members are considered officials [2 O.C. 210.3-1(j)] under this
355 law and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
356 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle
357 of the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials)
358 to have written consent from the BCC they serve on prior to being approved to use a Tribal vehicle
359 [2 O.C. 210.6-1(b)(2)]. Certification includes providing the Human Resources Department with
360 the appropriate license, training certifications, and insurance information [2 O.C. 210.8-1].
361 Additionally, BCC members must abide by all reporting requirements in this law [2 O.C. 210.9-2].
362 a. BCC members who violate this law may be subject to:
363 i. any laws regarding sanctions or penalties; and
364 ii. termination of appointment following the Boards, Committees and Commissions
365 law [1 O.C. 105].
366

ONEIDA ELECTION BOARD BY-LAWS

Article I. Authority

1-1. Name. The name of this entity will be the Oneida Election Board and may be referred to as the Board.

1-2. Authority. This entity is re-recognized by the Oneida Business Committee by adoption of these by-laws on December 30, 1998 and amended on May 21, 2003 and February 25, 2009.

1-3. Office. The official mailing address of this entity shall be:

Oneida Election Board
P.O. Box 413
Oneida, Wisconsin 54155

The physical meeting place shall be determined at the first meeting of this entity and may change from time to time as determined by the entity, but shall be within the reservation boundaries unless noticed to the membership prior to designating the meeting location.

1-4. Membership. The Board will:

- a. Consist of 12 (twelve) voting members.
- b. Be selected in accordance with the Election Law, Section 4-2, provided that the following processes shall be used:
 - i. *More nominations than vacancies.* At the General Tribal Council Meeting, members shall be nominated at the meeting. The nominated person shall either accept or decline. Upon closure of the acceptance of nominations for members, the Tribal Secretary and Election Board Chairperson, or designee, shall number the candidates consecutively for members. The General Tribal Council shall then utilize ballots prepared for this purpose and shall cast their ballots choosing the appropriate number of names from each set.
 - ii. *Less nominations than vacancies.* In the event that less candidates are nominated than there are vacant positions, no voting is needed.
 - iii. *Ties.* In the event of a tie, the tie shall be broken by the flip of a coin.
- c. Fill vacancies in accordance with the Election Law, Section 4-2a.
- d. Remove members from the Board due to unexcused absence's in accordance with the Removal Law.
- e. Accept resignation's when submitted in writing and presented to the Board in accordance with the Election Law, Section 4-6.

1-5. Elections. The Board is responsible for holding elections of the Oneida Tribe and conducting secret ballots of General Tribal Council Meetings.

Article II. Officers

2-1. Officers. This entity shall have three officers -- Chairperson, Vice Chairperson, and Secretary.

2-2. Chair duties. Responsible for calling meetings and notifying members with the assistance of the Secretary. The Chairperson shall preside over all regular and special meetings, shall oversee the conduct of the election, and shall post the results of all elections.

2-3. Vice Chair duties. The Vice Chairperson shall preside at all meetings in the absence of the Chairperson. The Vice Chairperson shall work with the Chairperson in all matters that concern the Board.

2-4. Secretary duties. The Secretary shall keep accurate minutes of all meetings, both regular and

special meetings. Assure that minutes are reported in the proper format. Read and answer all mail abiding by/to the decisions of the Board.

2-5. *How chosen and length of term.* The officers shall serve terms of three (3) years and shall be elected by a majority vote at the first meeting of the Election Board following their selection by the GTC. In the event of a vacancy, the successor shall be voted in by the voting members for the duration of the unexpired term.

2-6. *Members.* Members shall serve a term of three (3) years and shall be selected by the GTC. Members of the Board shall have voting powers. No Member shall serve for more than two consecutive terms. In the event of a vacancy of a Member, a request shall be submitted to the Oneida Business Committee requesting the vacancy be posted.

a. Upon declaration of candidacy for elected office, members shall take a leave of absence which shall last until the Final Report is approved by the Board.

2-7. *Standing and Special Committees.* Standing and special committees shall be created when necessary.

2-8. *Compensation.* The Board shall be compensated as defined by the Comprehensive Policy Governing Boards, Committees, and Commissions for all meetings, including General Tribal Council meetings, at the rate of \$50.00 per meeting and paid at an hourly rate of \$10.00 per hour for all Elections.

2-9. *Conflict of Interest.* Any board member who may be related to¹ a candidate on the ballot for the current election shall recuse themselves from the actual election and any recounts relative to that election.

Article III. Meetings

3-1. *Regular meetings.* The regular meeting of the Board shall be held as called for by the Chairperson. Notice of meeting location, agenda, and materials shall be forwarded by the Chairperson with the assistance of the Secretary. Meetings shall be run in accordance with Roberts Rule's of Order.

a. Members may contact another member in any fashion to identify that they wish to be excused prior to the meeting. After a meeting, the Board may identify that a member may be excused from the prior meeting by majority vote.

3-2. *Emergency meetings.* Emergency or special meetings may be called by the Chairperson with at least a one hour notice.

3-3. *Quorum.* A quorum shall consist of a majority of current members and shall include the Chairperson or Vice-Chairperson.

3-4. *Order of Business.* The regular meetings of the Board shall follow the order of business as set out herein:

- a. Call to order
- b. Approve/Amend Agenda
- c. Approve/Amend Minutes
- d. Tabled Business

¹The term "related to" shall be defined as a Board member's Father, Father-in-law, Daughter-in-law, Mother, Mother-in-law, Son-in-law, Husband, Brother-in-law, Sister-in-law, Wife, Brother, Sister, Son, Grandparent, Grandchild or Daughter.

- e. Old Business
- f. New Business
- g. Other Concerns/Announcements
- h. Next Meeting & Adjournment

3-5. Voting. Voting shall be in accordance with Roberts Rule's of Order or by a majority vote of the voting members.

Article IV. Reporting

4-1. Format. Agenda items shall be in an identified format.

4-2. Minutes. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity.

4-3. Attachments. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.

4-4. Reporting. The Chairperson will report to the Tribal Secretary, who is the designated liaison. This reporting format may be as the Tribal Secretary and Board agree to, but not less than that required in any policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. Reports shall be made within a reasonable time after a meeting is held, or as the Tribal Secretary and the Board agree.

Article V. Amendments

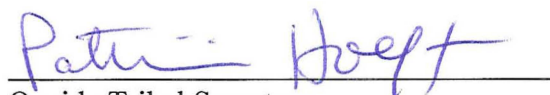
5-1. Amendments to By-Laws. Amendments shall be made to these by-laws at a regular meeting of the Board provided that written notice of proposed amendments was made at a prior regular meeting.

Amendments are effective upon adoption by the Board and approved by the Oneida Business Committee.

These by-laws, as amended and revised, are hereby attested to as adopted by the Board at a duly called meeting by the Chairperson's signature on February 9, 2009, and approved by the Oneida Business Committee at a duly called meeting held on February 25, 2009, signed by the Tribal Secretary of the Oneida Business Committee.



Oneida Election Board Chairperson



Oneida Tribal Secretary

Oneida Tribe of Indians of Wisconsin

ONEIDA ELECTION BOARD ~~BY LAWS~~ BYLAWS

Article I. -Authority

1-1. - ~~Name.~~ - _____ The name of this entity ~~will~~shall be the Oneida Election Board and may be _____ referred to as the Board.

~~1-2.~~

1-2. Establishment. This Board was established by the Oneida General Tribal Council (“GTC”) _____ on July 7, 1939, through resolution GTC-07-07-39; and under the Nation’s Election law, adopted by GTC motion during its June 19, 1993 special meeting, as further amended by motion of the Oneida Business Committee _____ on June 28, 1995, as well as resolutions GTC-07-06-98-A, GTC-01-04-10-A, BC-02-25-15-C and GTC-04-23-17-A.

~~Authority.~~ This entity is re-recognized by the Oneida Business Committee by adoption of these by laws on December 30, 1998 and amended on May 21, 2003 and February 25, 2009.

1-3. Authority. - _____

(a) Purpose. The Board was created to carry out the provisions of the Election law and Article III, Sections 2 & 3 of the Constitution of the Oneida Nation. The purpose of the Board is to conduct the Nation’s elections in compliance with the laws of the Nation and assist with GTC meetings in reference to voting.

(b) Powers and Duties. The Board is responsible to conduct elections and to govern all procedures used in the election process along with attending GTC meetings. The Board has all delegated authority established through the laws, policies, rules and resolutions of the Nation, including, but not limited to, the Election law.

1-4. Office. - _____ The official mailing address of ~~this entity~~the Election Board shall be:

Oneida Election Board
P.O. Box 413
Oneida, Wisconsin 54155

1-5. Membership.

(a) Number of Members. The ~~physical~~Election Board shall consist of nine (9) members.

(1) Board Alternates. The Oneida Business Committee may appoint or reappoint a sufficient number of alternates to the Board, as recommended by the Board, to assist with election day and pre-election activities.

(b) Elected. Members of the Board shall be elected by enrolled members of the Nation in accordance with the laws and/or policies of the Nation governing elections.

(1) Members of the Board shall serve terms of three (3) years, not to exceed two (2) consecutive terms.

92 1-6. Termination or Removal. A member of the Board found to be in violation of these bylaws
93 or the Election law may be subject to the following:

94 (a) If the Board member was elected, the Board's filing of a petition for his or
95 her removal pursuant to the Removal law and/or any other law of the Nation
96 governing removal of elected officials;

97 (1) A member who is removed from the Board shall be ineligible to
98 serve on the Board for three (3) years from the time he or she is
99 removed from the Board.

100 (b) If the Board member was appointed, the Board's recommendation to the
101 Oneida Business Committee for termination of his or her appointment
102 pursuant to the Boards, Committees and Commissions law and/or any other
103 law of the Nation governing termination of appointed officials.

104 (c) The filing of a petition for removal or submission of a recommendation for
105 termination shall be decided by a majority vote of the members in
106 attendance at a Board meeting of an established quorum.

107
108 1-7. Trainings and Conferences. Mandatory trainings/conferences for members of the Board
109 shall be as follows:

110 (a) Robert's Rules of Order training on an annual basis or as needed, not to
111 exceed five (5) full days per Board member; and/or

112 (b) Other Tribal Affiliated Election conferences/trainings as approved by the
113 Board, not to exceed three (3) full days per Board member, per term.

114 (c) Regardless of the number of trainings/conferences that he or she is required
115 to attend, no member of the Bard shall be eligible to receive stipends for
116 attending more than five (5) full days of mandatory trainings/conferences
117 per year.

118
119 **Article II. Officers & Non-Officer Positions**

120 2-1. ~~Officers determined~~ The Officer positions of the Board shall consist of a Chairperson, a
121 Vice- Chairperson and a Secretary.

122
123 2-2. Responsibilities of the Chairperson. The duties, responsibilities and limitations of the
124 Chairperson are as follows:

125 (a) Call meetings and notify Board members with the assistance of the Vice-
126 Chairperson and/or Secretary;

127 (b) Preside over all meetings and hearings of the Board;

128 (c) Oversee the conduct of the election;

129 (d) Decide issues of voter eligibility with the assistance of the Election
130 Judge(s);

131 (e) Select the hearing body for applicants found to be ineligible in accordance
132 with the Election law in the event of an appeal;

133 (f) Dismiss the alternates and Trust Enrollment Department personnel when
134 their election day duties are complete;

135 (g) Post and report the results of all elections;

136 (h) With the assistance of the Board Secretary, submit quarterly reports to the
137 Oneida Business Committee and annual/semi-annual reports to the Oneida

138 General Tribal Council in accordance with the Boards, Committees and
139 Commissions law;

140 (g) Attend, or designate a Board member to attend, the Oneida Business
141 Committee meeting where the Board's quarterly report appears on the
142 agenda; and

143 (i) Carry out any other duty assigned to the Chairperson by the Board or the
144 Election law.

145
146 2-3. Responsibilities of the Vice-Chairperson. The duties, responsibilities and limitations of the
147 Vice-Chairperson are as follows:

148 (a) Preside over all meetings in the absence of the Chairperson and assist the
149 Chairperson in forwarding notice of meeting location, agenda, minutes and
150 materials; and

151 (b) Work with the Chairperson in all matters that concern the Board.

152
153 2-4. Responsibilities of the Secretary. The duties, responsibilities and limitations of the
154 Secretary are as follows:

155 (a) Keep accurate minutes of all Board meetings; submit them to the Oneida
156 Business Committee Support Office in accordance with the Boards,
157 Committees and Commissions law; and make them available to other Board
158 members, as well as the public, per the requirements of the Nation's Open
159 Records and Open Meetings law;

160 (b) Assure that minutes are reported in the proper format;

161 (c) Oversee mail received and inform the Board of all correspondence;

162 (d) In the event that both the Chairperson and Vice-Chairperson positions
163 become vacant before the end of their terms, call Board meetings to fill the
164 vacancies and preside over those meetings for the sole purpose of
165 conducting an election of new Officers, at which point the Chairperson, or
166 Vice-Chairperson in the absence of the Chairperson, shall preside;

167 (e) Assist the Chairperson in forwarding notice of meeting location, agenda,
168 minutes and materials; and

169 (f) As applicable, the Oneida Business Committee Support Office will assist
170 the Secretary with certain administrative duties and responsibilities.

171
172 2-5. Selection of Officers. The Officers shall serve one (1) year terms and shall be elected by a
173 majority vote of the members in attendance at a Board meeting of an
174 established quorum.

175 (a) The Chairperson shall be elected at the first meeting of the Board.

176 (1) Upon his or her election, the Chairperson shall direct the Board to
177 elect a Vice-Chairperson and Secretary.

178 (b) Board members may be dismissed from their Officer positions by majority
179 vote of the members in attendance at a Board meeting of an established
180 quorum.

181 (c) In the event of a vacancy in the position of a Board Officer, a successor
182 shall be voted in by a majority vote of the members in attendance at a Board

183 meeting of an established quorum for the duration of the Officer's unexpired
184 term.

185 (d) Officers may hold only one (1) Officer position per Officer term.

186
187 2-6. *Ad Hoc Committee of the Board.* The Board shall create an Ad Hoc Committee for the
188 limited purpose of maintaining a pool of qualified candidates that the Board
189 may choose from, when needed, to assist with its duties relating to GTC
190 meetings. On or before the date of its creation, the Board shall develop a
191 mission statement that reflects the Ad Hoc Committee's limited purpose
192 stated herein.

193 (a) Members of the Ad Hoc Committee shall be appointed and reappointed by
194 the Oneida Business Committee, as recommended by the Board, for one (1)
195 year terms in accordance with the Boards, Committees and Commissions
196 law.

197 (1) Members of the Ad Hoc Committee shall not be limited in the
198 number of terms they can serve, consecutively or otherwise.

199 (b) Members of the Ad Hoc Committee must possess the same qualifications
200 required of Board members under the Election law and these bylaws.

201 (c) Upon appointment, members of the Ad Hoc Committee must take an oath
202 during a regular or special meeting of the Oneida Business Committee.

203 (1) Members of the Ad Hoc Committee shall be subject to the applicable
204 portions of section 4-1 and all of sections 4-2 through 4-5 of these
205 bylaws to the same extent as appointed members of the Board,
206 including the provisions relating to enforcement and discipline.

207 (d) Members of the Ad Hoc Committee shall receive a stipend of fifty (50)
208 dollars for each GTC meeting that:

209 (1) The Board asked them to attend to assist with its duties relating to
210 GTC meetings;

211 (2) They did attend for the entirety of the meeting; and

212 (3) They did assist with the Board's duties relating to GTC meetings.

213 (e) Dissolution of the Ad Hoc Committee shall be in accordance with the
214 Boards, Committees and Commissions law.

215
216 2-7. *Non-Officer Positions.* The Board shall identify Board members who shall serve in the non-
217 Officer positions of tellers, Election Judges and clerks in advance of an
218 election.

219 (a) Non-Officers shall be identified in accordance with the Election law.

220
221 2-8. *Responsibilities of the Election Judge.* The duties, responsibilities and limitations of the
222 Election Judge are as follows:

223 (a) Inform and advise the Chairperson of all aspects of elections conducted
224 under the Election law;

225 (b) In accordance with the Election law, meet with the Trust Enrollment
226 Department personnel who are registering voters to answer questions
227 arising over voter eligibility; and

(1) When disputes among Board members, or between members of the Nation and Board members, or any controversy regarding voter eligibility arise, the Election Judge shall assist the Chairperson in making a determination.

(c) Ensure that all ballots of voters whose eligibility may be in question remain confidential.

2-9. *Responsibilities of the Teller.* The duties, responsibilities and limitations of the teller are as follows:

(a) Collect and keep safe all ballots until the election is complete, as determined by the Election law; and

(b) Assist the Chairperson as directed in conducting the election.

2-10. *Responsibilities of the Clerk.* The duties, responsibilities and limitations of the clerk are as follows:

(a) Implement the requirements of identifying and registering all voters and determining voter eligibility;

(b) Work in conjunction with the Trust Enrollment Department personnel in the registration process;

(c) Assist the Chairperson as directed in conducting the election; and

(d) Not be currently employed in the Trust Enrollment Department.

2-11. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(a) Levels of budgetary sign-off authority for the Board shall be as set forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures, for Area Directors/Enterprise Directors.*

(1) All Board Officers have sign-off authority and two (2) Officers shall be required to sign-off on all budgetary requests, including stipends and expenses.

(b) The Board shall approve a member's request to travel on behalf of the Board by a majority vote of the members in attendance at a regular or emergency Board meeting of an established quorum.

2-12. *Personnel.* The Board shall not have the authority to hire personnel for the benefit of the Board.

Article III. Meetings

3-1. ~~this entity and may~~ *Regular Meetings.* The regular meetings of the Board shall be held every second (2nd)

Monday of the month, commencing at 5:00 p.m., at the Ridgeview Plaza, or another location as suggested at the first meeting of the Board, and may

change from time-to-time as determined by the ~~entity,~~ Board but shall be within ~~the reservation~~ the Reservation boundaries unless

noticed to ~~the~~ membership all members in writing and, along with the public, in accordance with governing law, including, but not

274 limited to, the Nation's Open Records and Open Meetings law, prior to
275 designating the meeting location.

276 (a) The regular meeting date, time and location may change from time-to-time
277 as determined by a majority vote of the members in attendance at a Board
278 meeting of an established quorum upon notice to all members in writing
279 and, along with the public, in accordance with governing law, including, but
280 not limited to, the Nation's Open Records and Open Meetings law, prior to
281 the implementation of a new date, time and/or location.

282 (b) Notice of meeting location, agenda, minutes and materials shall be
283 forwarded by the Chairperson with the assistance of the Vice-Chairperson
284 and/or Secretary.

285 (c) Meetings shall be run in accordance with Robert's Rules of Order.

286
287 3-2. *Emergency Meetings.* An emergency meeting may be called by the Chairperson when time
288 sensitive issues require immediate action.

289 (a) The Chairperson or Chairperson's designee shall provide advance notice to
290 all Board members of an emergency meeting by telephone call, as well as
291 email communication sent to the official Oneida Nation email address
292 provided to each member to conduct business electronically on behalf of the
293 Board, and shall further provide notice to all members, as well as the public,
294 in accordance with the Nation's Open Records and Open Meetings law.

295 (b) Within seventy-two (72) hours after an emergency meeting, the Board
296 Chairperson or Chairperson's designee shall provide the Nation's Secretary
297 with notice of the emergency meeting, the reason for the emergency
298 meeting, and an explanation as to why the matter could not wait until the
299 next regular meeting.

300
301 3-3. *Joint Meetings.* Joint Meetings shall not be held.

302
303 3-4. *Quorum.* A quorum shall consist of a majority of current Board members, at least one
304 (1) of which shall include the Chairperson, Vice-Chairperson or Secretary;
305 provided, the Secretary is presiding over the meeting in accordance with
306 section 2-4(d) of these bylaws.

307
308 3-5. *Order of Business.* The order of business, as far as applicable, is:

- 309 (a) Call to Order
310 (b) Adopt the Agenda
311 (c) Approval of Minutes
312 (d) Old Business
313 (e) New Business
314 (f) Other Concerns/Announcements
315 (g) Executive Session
316 (h) Adjournment

317
318 3-6. *Voting.* Voting shall be in accordance with a majority vote of the Board members
319 present at a meeting of an established quorum.

320 (a) All members of the Board shall have one (1) equal vote.

321 (b) The Chairperson or Vice-Chairperson, when presiding in the absence of the
322 Chairperson, and Secretary, when presiding in accordance with section 2-4
323 (d) of these bylaws, shall only vote when a tie needs to be broken.

324 (c) E-polls are permitted so long as conducted in accordance with the Boards,
325 Committees and Commissions law.

326 (1) The Vice-Chairperson, in the absence or discretion of the Chair-
327 person, and the Secretary, in the absence of the Vice-Chairperson or
328 discretion of the Chairperson, shall be responsible for conducting e-
329 polls.

330
331 **Article IV. 1-4. Membership.** The Board will:

332 a. ~~Consist of 12 (twelve) voting members.~~

333 b. ~~Be selected in accordance with~~ **Expectations**

334 4-1. *Behavior of Members.* Members of the Board are expected to behave as follows:

335 (a) They shall not miss three (3) consecutive unexcused meetings within a
336 twelve (12) month period.

337 (1) A member who fails to notify a Board Officer, in writing, of his or
338 her absence at least thirty (30) minutes prior to the meeting in which
339 he or she will be absent shall be deemed unexcused.

340 (b) They shall follow the Election Law, Section 4-2, provided Board's Code of
341 Conduct.

342 (c) They shall not speak or act in the name of the Board except when, by
343 majority vote of the members present at a meeting of an established quorum,
344 the Board has specifically delegated that the following
345 processes responsibility.

346 (d) *Enforcement.* Any member of the Board found to be in violation of these
347 behaviors/expectations may be subject to:

348 (1) Sanctions and penalties in accordance with any laws or policies of
349 the Nation governing sanctions and/or penalties of officials.

350 (2) If the Board member was elected, the Board's filing of a petition for
351 his or her removal pursuant to the Removal law and/or any other
352 laws or policies of the Nation governing the removal of elected
353 officials.

354 (3) If the Board member was appointed, the Board's recommendation
355 to the Oneida Business Committee for termination of his or her
356 appointment pursuant to the Boards, Committees and Commissions
357 law and/or any other laws or policies of the Nation governing the
358 termination of appointed officials.

359 (4) The filing of a petition for removal or recommendation for
360 termination shall be decided by a majority vote of the members in
361 attendance at a Board meeting of an established quorum.

362
363 4-2. *Prohibition of Violence.* Any violent intentional act committed by a member of the Board
364 that inflicts, attempts to inflict or threatens to inflict emotional or bodily

365 harm on another person, or damage to property, when acting in his or her
 366 official capacity is strictly prohibited.

367
 368 4-3. *Drug and Alcohol Use.* Members of the Board are prohibited from using alcohol and/or
 369 illegal drugs when acting in their official capacity.

370
 371 4-4. *Social Media.* Social media shall be used; in accordance with the members' oath of office,
 372 as well as any laws or policies of the Nation governing social media.

373 ~~i. *More nominations than vacancies.* At the General Tribal Council Meeting,~~
 374 ~~members shall be nominated at the meeting. The nominated person shall either~~
 375 ~~accept or decline. Upon closure of the acceptance of nominations for members, the~~
 376 ~~Tribal Secretary and Election Board Chairperson, or designee, shall number the~~
 377 ~~candidates consecutively for members. The General Tribal Council shall then~~
 378 ~~utilize ballots prepared for this purpose and shall cast their ballots choosing the~~
 379 ~~appropriate number of names from each set.~~

380 ~~ii. *Less nominations than vacancies.* In the event that less candidates are~~
 381 ~~nominated than there are vacant positions, no voting is needed.~~

382 ~~iii. *Ties.* In the event of a tie, the tie shall be broken by the flip of a coin.~~

383 ~~e. Fill vacancies in accordance with the Election Law, Section 4-2a.~~

384 ~~d. Remove members from the Board due to unexcused absence's in accordance with the~~
 385 ~~Removal Law.~~

386 ~~e. Accept resignation's when submitted in writing and presented to the Board in accordance with~~
 387 ~~the Election Law, Section 4-6.~~ (a) No member of the Board shall post
 388 any Election Board information on his or her Facebook page or other
 389 social media outlets.

390
 391 4-5. *Conflict of Interest.* Members of the Board shall abide by all applicable laws of the Nation
 392 governing conflicts of interest.

393 (a) A Board member shall recuse himself or herself from participating as a
 394 Board member in any pre-election, election day, or post-election activities
 395 when:

396 (1) He or she is a petitioner, applicant or candidate in any election;

397 (2) A petitioner, applicant, or candidate in any election is an immediate
 398 family member of the Board member; or

399 (A) Immediate family member shall be as defined within the
 400 Nation's Conflict of Interest law.

401 (3) There is otherwise a conflict of interest.

402 (b) Unless otherwise provided in any governing laws of the Nation
 403 relating to conflicts of interest, any conflicts will be handled by
 404 recommendation of

405 ~~(a) 1-5. *Elections.* The Board is responsible for holding elections of the Oneida~~
 406 ~~Tribe and conducting secret ballots of General Tribal Council Meetings.~~

407
 408 ~~**Article II. Officers**~~

409 ~~**2-1. Officers.** This entity shall have three officers—Chairperson, Vice Chairperson, and Secretary.~~

~~2-2. *Chair duties.* Responsible for calling meetings and notifying members with the assistance of the Secretary. The Chairperson shall preside over all regular and special meetings, shall oversee the conduct of the election, and shall post the results of all elections.~~

~~2-3. *Vice Chair duties.* The Vice Chairperson shall preside at all meetings in the absence of the Chairperson. The Vice Chairperson shall work with the Chairperson in all matters that concern the Board.~~

~~2-4. *Secretary duties.* The Secretary shall keep accurate minutes of all meetings, both regular and special meetings. Assure that minutes are reported in the proper format. Read and answer all mail abiding by/to the decisions of the Board.~~

~~2-5. *How chosen and length of term.* The officers shall serve terms of three (3) years and shall be elected by a majority vote at the first meeting of the Election members in attendance at a Board meeting of an established quorum.~~

Article V. Stipends and Compensation

~~5-1. *Stipends.* Board members are eligible for the following ~~their selection~~ stipends as set forth in and _____ subject to these bylaws, the Boards, Committees and Commissions law, and _____ resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D _____ Boards, Committees and Commissions Law Stipends, as may be further _____ amended from time-to-time hereafter:~~

~~(a) Two (2) monthly meeting stipends;~~

~~(b) Stipends for conducting hearings on appeals of eligibility determinations;~~

~~(c) Stipends for attending Judiciary hearings;~~

~~(1) A member of the Board may only receive a stipend for attending an Oneida Judiciary hearing if that member's attendance was required by official subpoena.~~

~~(d) A stipend for attendance at each full day of a training/conference that is required by the GTC. In the event of a vacancy, the successor shall be voted in law, bylaws or resolution.~~

~~(e) An hourly stipend for services that he or she provides during an election, including, but not limited to, managing the polling site, recounts and lot drawings; and~~

~~(f) A stipend for attending and providing service at an Oneida General Tribal Council meeting of the Nation.~~

~~5-2. *Compensation.* Besides the travel, per diem and business expense reimbursement authorized by the ~~voting members for the duration~~ Boards, Committees and Commissions law, Board _____ members shall not be eligible for any other form of ~~the unexpired term~~ compensation for duties/ _____ activities they perform on behalf of the Board.~~

Article VI. Records and Reporting

~~6-1. *Agenda Items.* Agenda items ~~2-6. *Members.* Members shall serve a term of three (3) years and shall be selected~~ maintained in a format provided by the GTC. ~~Members~~ Oneida _____ Business Committee Support Office.~~

456 ~~6-2. *Minutes.* Minutes of the Board shall have voting powers. No Member shall serve for~~
 457 ~~more than two consecutive terms. In the event of a vacancy of a Member, a request be typed in a~~
 458 ~~format designed by the Oneida Business Committee Support~~
 459 ~~Office to generate the most informative record of the Board's meetings,~~
 460 ~~including a summary of the actions taken by the Board during~~
 461 ~~its meetings.~~

462 (a) ~~Minutes shall be submitted to the Oneida Business Committee Support~~
 463 ~~Office within five (5) days of the meeting date.~~

464
 465 ~~6-3. *Attachments.* Any handouts, reports, or documents shall be turned in to be filed with the~~
 466 ~~minutes and agenda for the meeting in which they were presented.~~

467 (a) ~~All handouts, reports, and documents shall be kept in electronic format in~~
 468 ~~the Board's shared folder.~~

469
 470 ~~6-4. *Oneida Business Committee Liaison.* The Board shall regularly communicate with the~~
 471 ~~Oneida Business Committee member who is its designated liaison.~~

472 (a) ~~The frequency and method of communication shall be as agreed upon by~~
 473 ~~the Board and the liaison, but not less than that required in any law or policy~~
 474 ~~on reporting developed by the Oneida Business Committee or Oneida~~
 475 ~~General Tribal Council.~~

476
 477 ~~6-5. *Audio Recordings.* All meetings of the Board shall be audio recorded using a recording~~
 478 ~~device supplied by the Oneida Business Committee Support Office.~~

479 (a) ~~Audio recordings shall be submitted to the Oneida Business Committee~~
 480 ~~requesting the vacancy be posted. Support Office by the Chairperson or~~
 481 ~~Chairperson's designee for purposes of maintaining in accordance with the~~
 482 ~~applicable laws of the Nation.~~

483 a. ~~Upon declaration (b) Exception. Audio recordings of candidacy for elected office,~~
 484 ~~members shall take a leave executive session portions of absence which shall last until the~~
 485 ~~Final Report is approved by the Board.~~

486 ~~2-7. *Standing and Special Committees.* Standing and special committees shall be created when~~
 487 ~~necessary.~~

488 ~~2-8. *Compensation.* The Board shall be compensated as defined by the Comprehensive Policy~~
 489 ~~Governing Boards, Committees, and Commissions for all meetings, including General Tribal~~
 490 ~~Council meetings, at the rate of \$50.00 per meeting and paid at an hourly rate of \$10.00 per hour~~
 491 ~~for all Elections.~~

492 ~~2-9. *Conflict of Interest.* Any board member who may be related to[†] a candidate on the ballot for~~
 493 ~~the current election shall recuse themselves from the actual election and any recounts relative to that~~
 494 ~~election.~~

495 ~~Article III. shall Meetings~~

[†]The term "related to" shall be defined as a Board member's Father, Father in law, Daughter in law, Mother, Mother in law, Son in law, Husband, Brother in law, Sister in law, Wife, Brother, Sister, Son, Grandparent, Grandchild or Daughter.

~~3-1. **Regular meetings.** The regular meeting of the Board shall be held as called for by the Chairperson. Notice of meeting location, agenda, and materials shall be forwarded by the Chairperson with the assistance of the Secretary. Meetings shall be run in accordance with Roberts Rule's of Order.~~

~~a. Members may contact another member in any fashion to identify that they wish to be excused prior to the meeting. After a meeting, the Board may identify that a member may be excused from the prior meeting by majority vote.~~

~~3-2. **Emergency meetings.** Emergency or special meetings may be called by the Chairperson with at least a one hour notice.~~

~~3-3. **Quorum.** A quorum shall consist of a majority of current members and shall include the Chairperson or Vice Chairperson.~~

~~3-4. **Order of Business.** The regular meetings of the Board shall follow the order of business as set out herein:~~

- ~~a. Call to order~~
- ~~b. Approve/ Amend Agenda~~
- ~~c. Approve/ Amend Minutes~~
- ~~d. Tabled Business~~
- ~~e. Old Business~~
- ~~f. New Business~~
- ~~g. Other Concerns/ Announcements~~
- ~~h. Next Meeting & Adjournment~~

~~3-5. **Voting.** Voting shall be in accordance with Roberts Rule's of Order or by a majority vote of the voting members.~~

~~Article IV. Reporting~~

~~4-1. **Format.** Agenda items shall be in an identified format.~~

~~4-2. **Minutes.** Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity.~~

~~4-3. **Attachments.** Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.~~

~~4-4. **Reporting.** The Chairperson will report to the Tribal Secretary, who is the designated liaison. This reporting format may be as the Tribal Secretary and Board agree to, but not less than that be required in any policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. Reports shall be made within a reasonable time after a meeting is held, or as the Tribal Secretary and the Board agree.~~

~~Article V.~~

~~Article VII. Amendments~~

~~57-1. - **Amendments to By-Laws-Bylaws.** Amendments shall be made to these by-laws at a regular meeting of the Board provided that bylaws by a majority vote of the members present at a regular Board meeting of an established quorum, provided that a written notice of proposed amendments was made at a prior regular meeting.~~

- 542 (a) ~~Amendments are effective upon adoption by the Board and~~ to these bylaws
- 543 must conform to the requirements of the ~~Boards,~~
- 544 Committees and Commissions law, as well as any other policy of
- 545 the Nation.
- 546 (b) Amendments to these bylaws must be approved by the Oneida Business
- 547 Committee. before implementation.

549

550 ~~These by laws, as amended and revised, are hereby attested to as adopted by the Board at a duly~~

551 ~~called meeting by the Chairperson's signature on February 9, 2009, and approved by the Oneida~~

552 ~~Business Committee at a duly called meeting held on February 25, 2009, signed by the Tribal~~

553 ~~Secretary of the Oneida Business Committee.~~

554

555

556 _____

557 ~~Oneida Election Board Chairperson~~

558

559

560 _____

561 ~~Oneida Tribal Secretary~~

562 ~~Oneida Tribe of Indians of Wisconsin~~ (c) The Board shall review these bylaws

563 from time to time as needed, but no less than on an annual basis.

564



Legislative Operating Committee
September 18, 2019

Oneida Community Library Board Bylaws Amendments

Submission Date: 10/03/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *On September 26, 2018, the Oneida Business Committee (“OBC”) adopted the Boards, Committees and Commissions law (“Law”) through resolution BC-09-26-18-C, titled Amendments to the Comprehensive Policy Governing Boards, Committees and Commissions. Per Section 105.10-1(a) of the Law, within a reasonable time after its adoption, all existing boards, committees and commissions of the Nation must present bylaws for adoption that comply with the format and contain the minimal amount of information prescribed in the Law. In resolution BC-09-26-18-C, the OBC gave the Nation’s boards, committees and commissions six (6) months from the date of the Law’s adoption to present their bylaws. The OBC further directed that, within thirty (30) days of the Law’s adoption, the Legislative Reference Office hold at least two (2) informational bylaws meetings with the boards, committees and commissions for purposes of: (1) providing them with an update on the revised bylaws requirements that resulted from the Law’s adoption; (2) providing them with a template for the development of their revised bylaws; and (3) offering them any assistance in the development and/or drafting of their revised bylaws.*

10/3/18 LOC: Motion by Ernest Stevens III to add Oneida Community Library Board By-Laws Amendments to the active files list; Seconded by Kirby Metoxen. Motion carried.

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brooke Doxtator (OBCSO), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (OTEC/Library), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting amendments to the Comprehensive Policy Governing Boards, Committees Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws;

and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Pow-wow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elm (SEOTS), Diane Hill (SOETS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation's boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

1/31/19: *LOC Work Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to discuss the progress, in general, of the Nation's boards, committees and commissions on getting their bylaws amended and their likelihood of meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to have the LOC draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards, committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee seeking an extension of the March 26, 2019 bylaws amendments deadline and to forward the memorandum to the Oneida Business Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda for consideration; Seconded by Kirby Metoxen. Motion carried.

2/22/19: *OBC Work Session.* Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions By-Laws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting, the LRO Staff Attorney assigned this item provided a status update on the progress of the boards, committees and commissions on the amending of their bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work

session to provide a progress report on the boards, committees and commissions' bylaws amendments.

3/19/19: *OBC Work Session.* Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman-King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions on the amending of their bylaws to conform to the Boards, Committees and Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LRO to draft a memo for the next LOC meeting to be forwarded to the OBC indicating the same.

**During its subsequent review of the Oneida Gaming Commission's proposed bylaws amendments, the OBC decided to add the following requirements to all of the boards, committees and commissions' bylaws amendments: (1) that, the recommendations for termination be by a majority vote of the members in attendance at a meeting of the entity's established quorum; (2) that, notice of meetings be provided to all members of the entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual, and that, two (2) of the entity's Officers be required to sign-off on all such purchases; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) to allow members to be dismissed (not removed as initially proposed) from their Officer positions by a simple majority vote of the entity; (5) that, the entities review their bylaws each time a vacancy is filled by a new member; (6) that, stipend amounts not be listed in the entity's bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the joint meeting section of the entity's bylaws.*

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments. During this meeting, the OBC also decided that all boards, committees and commissions must add the word "titled" next

to the name of the purchasing manual they are required to reference in the “sign-off” section of their bylaws to provide clarification on why the term “Oneida Tribe of Indians” is being used instead of the “Nation”.

5/1/19:

LOC Work Meeting. Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation’s boards, committees and commissions’ bylaws amendments before the Oneida Business Committee for adoption.

5/3/19:

LOC Work Meeting. Present: David Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Daniel Guzman-King, Kristen M. Hooker, Maureen Perkins, Jennifer Falck. The purpose of this work meeting was for the LOC go through the Oneida Community Library Board’s proposed bylaws amendments, as reviewed and revised by the LRO Staff Attorney, to flag any policy issues that the LOC felt warranted further discussion/vetting at a future OBC work session. This was done in accordance with a directive from the OBC on February 27, 2019 that all bylaws be reviewed by the OBC during an OBC work session to consider the policy issues flagged by the LOC before being added to an OBC meeting agenda for formal presentation and possible adoption.

7/29/19-7/30/19:

OBC Work Session. Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions’ bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Oneida Community Library Board Bylaws Amendments.
- Forward the Oneida Community Library Board Bylaws Amendments to the Oneida Business Committee for consideration.

ONEIDA COMMUNITY LIBRARY BOARD BYLAWS

Article I. Authority

1-1. *Name.* The name of this entity shall be the Oneida Community Library Board and may hereinafter be referred to as the Board.

1-2. *Establishment.* The Board was established by the Oneida Business Committee (“OBC”) in accordance with Wis. Stat., § 43.52 through its adoption of resolution BC-7-28-80 and its subsequent entry into an “Agreement for System Participation” with the Nicolet Federated Library System by motion of the OBC at its regular meeting on July 20, 1981.

1-3. *Authority.*

(a) *Purpose.* The purpose of the Board is to administer and oversee the administration of the Oneida Community Library in accordance with the laws of the Nation, Chapter 43 of the Wisconsin Statutes, and any policies adopted pursuant thereto.

(1) *Policy Statement of the Oneida Community Library Board:* Supporting and endorsing the American Library Association's Library Bill of Rights and freedom to read statement, the Board accepts that its purpose is to assist the Oneida General Tribal Council and library staff:

(A) To provide quality library and information services to the people of the Oneida community as well as Brown and Outagamie county residents through the continuation of existing tribal, county and inter-library system agreements.

(B) To encourage and promote the development of library services to meet the informational, educational, cultural and recreational needs of the Oneida Community Library clients.

(C) To develop policies which will protect the unique resources held by the Oneida Community Library; specifically, those pertaining to the Oneida/Haudenosaunee and other Native American Nations.

(D) To promote the use of meeting areas within the Oneida Community Library for socially useful and cultural activities.

(b) *Powers and Duties.* The Board shall be responsible for:

(1) The monitoring of, and advising on, the programs, services and acquisitions of print/non-print materials provided to Oneida Community Library clientele.

(2) The carrying out of all powers and duties set forth in Wis. Stat., § 43.58, as well as any other law, rule, policy or contractual provision created thereunder.

(3) The carrying out of any other authority delegated through the laws, policies, rules and resolutions of the Nation.

- 47 1-4. *Office.* The official office location and mailing address of the Board shall be:
48 (a) *Office Location:*
49 Oneida Community Library
50 201 Elm Street
51 Oneida, WI 54155
52 (b) *Mailing Address:*
53 Oneida Community Library Board
54 P.O. Box 365
55 Oneida, WI 54115
56
- 57 1-5. *Membership.*
58 (a) *Number of Members.* The Board shall consist of five (5) members, one of
59 whom shall be a school district administrator or administrator's
60 representative.
61 (1) Each Board member shall hold office until his or her term expires,
62 until his or her resignation, or until his or her appointment is
63 terminated in accordance with the Boards, Committees and
64 Commissions law.
65 (A) *Term Expiration.* Although a member's term has expired, he
66 or she shall remain in office until a successor has been sworn
67 in by the Oneida Business Committee.
68 (B) *Resignation.* A member may resign at any time verbally at a
69 meeting or by delivering written notice to the Oneida
70 Business Committee Support Office and the Board
71 Chairperson or Chairperson's designee. The resignation is
72 deemed effective upon acceptance by motion of a member's
73 verbal resignation or upon delivery of the written notices.
74 (b) *Appointed.* Board members shall be appointed by the Oneida Business
75 Committee in accordance with the Boards, Committees and Commissions
76 law for terms of three (3) years.
77 (c) *Vacancies.* Any vacancy for an expired/unexpired term shall be filled by
78 appointment by the Oneida Business Committee.
79 (1) The Board Chairperson shall review application materials and
80 provide the Oneida Business Committee with recommendations on
81 applicants for appointment by the executive session in which
82 appointments are intended to be made.
83 (d) *Qualification for Membership.* Board members shall meet the following
84 qualifications:
85 (1) Must be an enrolled member of the Oneida Nation;
86 (2) Must be a resident of either Brown or Outagamie County;
87 (3) Must be at least eighteen (18) years of age; and
88 (4) Must not be a contractor or employee of any Oneida Nation Library
89 branch.
90
- 91 1-6. *Termination.* A Board member's appointment may be terminated by the Oneida Business
92 Committee in accordance with the Boards, Committees and Commissions

93 law or any other law of the Nation governing the termination of appointed
94 officials.

95 (a) The Board may make recommendations to the Oneida Business Committee
96 for the termination of a member's appointment based on the following:

97 (1) A failure to attend three (3) unexcused consecutive meetings;

98 (2) A failure to attend five (5) unexcused meetings within a one (1) year
99 period; and/or

100 (A) An absence shall be deemed unexcused if a member fails to
101 provide written notice of his or her absence to a Board
102 Officer at least thirty (30) minutes prior to the missed
103 meeting.

104 (3) Other conduct detrimental to the Board or any Oneida Library
105 branch.

106 (b) Recommendations to the Oneida Business Committee for termination of a
107 Board member's appointment must be determined by a majority vote of the
108 Board members present at a meeting of an established quorum.
109

110 1-7. *Trainings and Conferences.* Board members shall participate in mandatory trainings/
111 conferences as follows:

112 (a) Wisconsin Library Association Annual Conference;

113 (b) Association of Tribal Archives;

114 (c) Libraries & Museums Annual Conference;

115 (d) American Indian Library Association Training; and/or

116 (e) American Library Association Conferences.

117 (f) On an annual basis or as needed not to exceed five (5) full days per member.

118 (g) Regardless of the number of trainings/conferences that he or she is required
119 to attend, no Board member shall be eligible to receive stipends for
120 attending more than five (5) full days of mandatory trainings/conferences
121 per year.
122

123 **Article II. Officers**

124 2-1. *Officers.* The Board shall have three (3) Officer positions consisting of a Chairperson,
125 a Vice-Chairperson and a Secretary.
126

127 2-2. *Responsibilities of the Chairperson.* The responsibilities, duties and limitations of the
128 Chairperson of the Board shall be as follows:

129 (a) Call and preside over meetings.

130 (b) Receive, review and monitor all correspondence of the Board, present to the
131 Board and sign all correspondence as approved by the Board.

132 (c) Submit Board meeting minutes, in conjunction with the Board Secretary, to
133 the Oneida Business Committee Support Office and maintain all recordings
134 of Board meetings in accordance with the state's, as well as the Nation's,
135 laws governing open records.

136 (d) In conjunction with the Board Secretary, submit reports, as requested by the
137 Oneida Business Committee; submit quarterly reports to the Oneida
138 Business Committee and annual/semi-annual reports to the Oneida General

139 Tribal Council, as required by the Boards, Committees and Commissions
140 law, as well as Wis. Stat., § 43.58; and attend, or designate a member of the
141 Board to attend, the Oneida Business Committee meeting where the Board's
142 quarterly report appears on the agenda.

143
144 2-3. *Responsibilities of the Vice-Chairperson.* The responsibilities, duties and limitations of the
145 Vice-Chairperson of the Board shall be as follows:

146 (a) Perform the Chairperson's duties in the absence of the Chairperson.

147
148 2-4. *Responsibilities of the Secretary.* The responsibilities, duties and limitations of the
149 Secretary of the Board shall be as follows:

150 (a) Maintain all minutes, reports and correspondence of the Board in
151 accordance with governing law, including, but not limited to, the Boards,
152 Committees and Commissions law and the state's, as well as the Nation's,
153 laws governing open records.

154 (b) Sign-off all expenditure approval statements referenced in section 2-6 of
155 these bylaws and assist the Board Chairperson with the submission of
156 reports referenced in section 2-2 of these bylaws.

157 (c) In the event that both the Chairperson and the Vice-Chairperson positions
158 become vacant before the end of their terms, call Board meetings to fill the
159 vacancies and preside over those meetings for the sole purpose of
160 conducting an election of new Officers, at which point the Chairperson, or
161 Vice-Chairperson in the absence of the Chairperson, shall preside.

162
163 2-5. *Selection of Officers.* An election of Officers shall take place annually at the beginning of
164 the fiscal year and/or when a member is appointed for terms of one (1) year.

165 (a) A Board member may be dismissed from his or her Officer position by a
166 majority vote of the Board members in attendance at a meeting of an
167 established quorum.

168 (b) Board Officers may only hold one (1) Officer position per Officer term.

169
170 2-6. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Oneida Nation's
171 policies and procedures regarding purchasing and sign-off authority.

172 (a) *Levels of Budgetary Sign-Off Authority.* The Board shall audit and approve
173 all expenditures of the public library and forward the bills or vouchers
174 covering the expenditures, setting forth the name of each claimant or payee,
175 the amount of each expenditure, and the purpose for which it was expended,
176 to the person designated under the Nation's policies and procedures to issue
177 payment for such expenditures.

178 (1) The Board shall include a statement, signed by the Board Secretary,
179 that the expenditure has been incurred and that the Board has audited
180 and approved the expenditure.

181 (A) Upon receiving the information referenced within this
182 section 2-6, the person designated by the Nation's policies
183 and procedures to issue payment for the expenditures shall
184 then pay the bill as others are paid.

- 185 (b) *Regular Wages/Recurring Payments.* Regular wages/salary or other
186 recurring payments, authorized by the Board and verified by the appropriate
187 Oneida Community Library personnel, may be paid by the person
188 designated under the Nation's policies and procedures to issue such
189 payments by the date due or, in the case of salaries, by the regular pay day.
190 (1) The Board shall audit and approve payments under this subsection
191 (b) at its next regular meeting.
- 192 (c) The Board shall approve a member's request to travel by majority vote of
193 its members in attendance at a regular or emergency Board meeting of an
194 established quorum.
- 195
- 196 2-7. *Personnel.* Subject to approval by the Oneida Business Committee under the governing
197 laws of the Nation, the Board shall have the authority set forth in Wis. Stat.,
198 § 43.58 to hire personnel for the benefit of the Board.
199

200 **Article III. Meetings**

- 201 3-1. *Regular Meetings.* The Board shall meet the 2nd Wednesday of each month, commencing
202 at 4:30 p.m., at the Oneida Community Library located on 201 Elm Street
203 in Oneida, Wisconsin.
- 204 (a) The regular meeting date, time and/or location may change from time-to-
205 time as determined by majority vote of the members in attendance at a
206 Board meeting of an established quorum so long as notice is provided to all
207 members in writing and, along with the public, in accordance with the
208 Nation's and the State of Wisconsin's open records/open meetings laws,
209 prior to the implementation of a new date, time and/or location.
- 210 (b) Notice of meeting location, agenda, minutes and materials shall be
211 forwarded by the Chairperson with the assistance of the Vice-Chairperson
212 and/or the Secretary to all members of the Board in writing and, along with
213 the public, in accordance with the Nation's and the State of Wisconsin's
214 open records/open meetings laws.
- 215 (c) Meetings shall be run in accordance with Robert's Rules of Order.
216
- 217 3-2. *Emergency Meetings.* An emergency meeting may be called when time sensitive issues
218 require immediate action.
- 219 (a) The Chairperson or Chairperson's designee shall provide advance notice of
220 emergency meetings to all Board members via telephone call, as well as
221 email communication sent to the official Oneida Nation email address
222 provided to each member to conduct business electronically on behalf of the
223 Board, and, along with the public, shall further be provided notice in
224 accordance with the Nation's and the State of Wisconsin's open records/
225 open meetings laws.
- 226 (b) Within seventy-two (72) hours after an emergency meeting, the Board shall
227 provide the Nation's Secretary with notice of the emergency meeting, the
228 reason for the emergency meeting, and an explanation as to why the matter
229 could not wait until the next regular meeting.
230

- 231 3-3. *Joint Meetings.* Joint Meetings between the Board and the Oneida Business Committee
232 shall not be held.
233
- 234 3-4. *Quorum.* A quorum shall consist of a majority of the current Board members and shall
235 include an Officer; provided, the Secretary shall only qualify as an Officer
236 for purposes of this section 3-4 when presiding over meetings called
237 pursuant to section 2-4(c) of these bylaws.
238
- 239 3-5. *Order of Business.* The order of business, as far as applicable, is:
240 (a) Call to Order
241 (b) Adopt the Agenda
242 (c) Approval of Minutes
243 (d) Old Business
244 (e) New Business
245 (f) Reports
246 (g) Other Business
247 (h) Executive Session
248 (i) Adjournment
249
- 250 3-6. *Voting.* A simple majority vote of the members in attendance at a meeting of an
251 established quorum is a required for all actions of the Board.
252 (a) The Board Chairperson or presiding Officer shall only vote in case of a tie.
253 (b) E-polls are permissible so long as conducted in accordance with the Boards,
254 Committees and Commissions law.
255 (1) The Vice-Chairperson shall serve as the Chairperson’s designee for
256 the responsibility of conducting an e-poll when the Chairperson is
257 absent or unavailable.
258

259 **Article IV. Expectations**

- 260 4-1. *Behavior of Members.* Board members shall adhere to the Oneida Community Library
261 Board Code of Conduct, these bylaws and any other applicable state laws
262 and/or laws of the Nation while acting on behalf of the Board.
263 (a) *Enforcement.* Any violation of this or any other section of these bylaws may
264 result in the following:
265 (1) Upon a majority vote of the members present at a Board meeting of
266 an established quorum, the Board may make a recommendation to
267 the Oneida Business Committee for the termination of that Board
268 member’s appointment in accordance with the Boards, Committees
269 and Commissions law or any other law of the Nation governing the
270 termination of appointed officials.
271 (2) The Board may discipline that Board member in accordance with
272 any state laws or laws of the Nation governing sanctions and
273 penalties for appointed officials.
274

275 4-2. *Prohibition of Violence.* Board members are prohibited from committing any violent
276 intentional act that inflicts, attempts to inflict, or threatens to inflict
277 emotional or bodily harm on another person, or damage to property.
278

279 4-3. *Drug and Alcohol Use.* When acting in their official capacity as members of the Board, the
280 use of alcohol or prohibited drugs is forbidden.

281 (a) Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines,
282 phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics,
283 any other substances included in Schedules I through V under Section 812
284 of Title 21 of the United States Code, and prescription medication or over-
285 the-counter medicine used in an unauthorized or unlawful manner.
286

287 4-4. *Social Media.* When using social media on behalf of or as a representative of the Board,
288 members shall comply with any laws or policies of the Nation governing
289 social media; their oaths of office; and any other applicable laws, rules,
290 policies and/or contractual provisions promulgated and applied to the Board
291 pursuant to participation as a member of the Nicolet Federated Library
292 System under Wis. Stat., § 43.54.
293

294 4-5. *Conflict of Interest.* Conflicts of interest of Board members shall be governed by all
295 applicable laws and policies of the Nation, as well as any laws, rules,
296 policies and/or contractual provisions promulgated and applied to the Board
297 pursuant to its participation as a member of the Nicolet Federated Library
298 System under Wis. Stat., § 43.54.

299 (a) Conflicts of interest shall be reported and mitigated/removed in accordance
300 with the applicable laws and policies of the Nation, as well as any laws,
301 rules, policies and/or contractual provisions promulgated and applied to the
302 Board pursuant to its participation as a member of the Nicolet Federated
303 Library System under Wis. Stat., § 43.54.
304

305 **Article V. Stipends and Compensation**

306 5-1. *Stipends.* Board members are eligible to receive a stipend for the following so long as
307 in accordance with these bylaws, the Boards, Committees and Commissions
308 law, and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-
309 18-D Boards, Committees and Commissions Law Stipends, as may further
310 be amended from time-to-time hereafter:

311 (a) One (1) meeting stipend per month, whether called as a regular meeting or
312 emergency meeting, provided that:

313 (1) A quorum was established;

314 (2) The meeting of the established quorum lasted for at least one (1)
315 hour; and

316 (3) The Board member requesting the stipend was physically present
317 for the entire meeting.

318 (b) A stipend for each day of attendance at a conference or training, provided
319 that:

- 320 (1) The Board member attended a full day of training or was present at
321 the conference for a full day; and
322 (2) The Board member's attendance at the training or conference was
323 mandated by law, bylaws or resolution.
324 (c) A stipend for attending a Judiciary hearing if the member's attendance was
325 required by official subpoena.
326

327 5-2. *Compensation.* Besides travel, per diem and business expense reimbursement authorized
328 by the Boards, Committees and Commissions law and Wis. Stat., § 43.54,
329 members of the Board shall not be eligible to receive any other form of
330 compensation for duties/activities they perform on behalf of the Board.
331

332 **Article VI. Records and Reporting**

333 6-1. *Agenda Items.* Agenda items shall be consistently maintained in a format that complies
334 with the State of Wisconsin's Open Meetings Law.
335

336 6-2. *Minutes.* Meeting minutes shall be typed and in a consistent format designed by the
337 Oneida Business Committee Support Office and in compliance with the
338 State of Wisconsin's Open Meetings Law to generate the most informative
339 record.

- 340 (a) Minutes shall include a summary of action taken by the Board.
341 (b) Minutes shall be submitted to the Oneida Business Committee Support
342 Office within seven (7) days of approval.
343

344 6-3. *Attachments.* Any handouts, reports, memorandum and the like provided at a meeting
345 shall be included with the agenda items and other meeting material in
346 which they were presented and maintained in accordance with the Nation's
347 and the State of Wisconsin's open records/open meetings laws.
348

349 6-4. *Oneida Business Committee Liaison.* The Board shall meet with the member of the Oneida
350 Business Committee who is its designated liaison as needed, the frequency
351 and format of which may be as agreed upon between the liaison and the
352 Board so long as no less than as required by law or policy on reporting
353 developed by the Oneida Business Committee or Oneida General Tribal
354 Council.

- 355 (a) The Board shall contact the liaison quarterly.
356

357 6-5. *Audio Recordings.* All meetings of the Board shall be recorded using a device supplied or
358 approved by the Oneida Business Committee Support Office.

- 359 (a) Audio recordings shall be maintained by the Chairperson or the Chair-
360 person's designee in accordance with the Nation's and the State of
361 Wisconsin's open records/open meetings laws.
362 (b) *Exception.* Audio recordings of executive session portions of a meeting
363 shall not be required.
364
365

366 **Article VII. Amendments**

367 7-1. *Amendments.* Amendments to these bylaws shall be approved by a majority vote of the
368 members in attendance at a regular Board meeting of an established
369 quorum.

370 (a) Amendments to these bylaws shall conform to the requirements of the
371 Boards, Committees and Commissions law, any applicable state law, and
372 all other governing policies of the Nation.

373 (b) Amendments shall be approved by the Oneida Business Committee before
374 implementation.

375 (c) The Board shall conduct a review of these bylaws on an annual basis.

376

377

378



Oneida Community Library Board Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: David P. Jordan	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These amendments comply with the Oneida Business Committee (OBC) directive established by resolution BC-09-26-18-C that all boards, committees and commissions of the Nation; excluding the OBC or standing committees of the OBC and Tribal corporations, amend their bylaws to comply with the requirements established by the Boards, Committees and Commissions law. Additional information and requirements included in these bylaws beyond what is required in the Boards, Committees and Commissions law is not prohibited [1 O.C. 105.10].		
Intent of the Bylaws	The Oneida Community Library Board (Library Board) bylaws provide a framework for the operation and management of the Library Board to govern the standard procedures regarding the way the Library Board conducts its affairs, including: the appointment of persons to the Library Board, the membership qualifications, duties and responsibilities of both members and officers, terms and filling vacancies of members, selection of officers, establishment of expectations of members, maintenance of official records, stipends, termination process, required training, and how the bylaws are amended.		
Purpose	The purpose of the Library Board is to administer and oversee the administration of the Oneida Community Library in accordance with the Laws of the Nation, Chapter 43 of the Wisconsin Statutes, and any other relevant adopted policies [Proposed Bylaws 1-3(a)].		
Related Legislation	Oneida Nation Constitution, Boards, Committees and Commissions law, Travel and Expense Policy, Conflict of Interest law, Social Media Policy, Computer Resources Ordinance, Open Records and Open Meetings law		
Enforcement/Due Process	A member of the Library Board serves at the discretion of the OBC. Upon the recommendation of a member of the OBC or majority vote of the Library Board, a member of the Library Board may have his or her appointment terminated by the OBC. A two-thirds majority vote of the OBC shall be required to terminate the appointment of an individual. The OBC's decision to terminate an appointment is final and not subject to appeal [1 O.C. 105-7-4].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

SECTION 2. BACKGROUND

- 1
- 2 A. The Library Board bylaws amendments were added to the active files list on October 3, 2018, with
- 3 David P. Jordan as the sponsor.
- 4 B. The Library Board was established by the OBC under the laws of the Nation through the adoption of
- 5 resolution BC-07-28-80. The OBC entered into an “Agreement for System Participation” with the
- 6 Nicolet Federated Library System by motion at an OBC meeting on July 20, 1981. This agreement
- 7 includes a requirement for the Nation to follow Wisconsin State statute 43.52 related to the participation

8 in the Nicolet Federated Library System. This analysis does not include an analysis of any laws outside
9 of the Nation’s laws.

10 C. The Library Board bylaws were most recently approved by the OBC on September 13, 2013.
11

12 SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW

13 A. The bylaws comply with the Boards, Committees and Commissions law.

14 B. The bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-18-
15 D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
16 amounts and eligibility requirements of stipends.
17

18 SECTION 4. AMENDMENTS

19 This section details the changes to the bylaws from the previously adopted bylaws.

20 A. ARTICLE I. AUTHORITY

- 21 a. The purpose of the Library Board was amended to include the role of administering and
22 overseeing the administration of the Oneida Community Library in accordance with
23 Wisconsin State Statute Chapter 43 [*Proposed Bylaws 1-3(a)*].
- 24 b. The membership changed with the addition of a requirement that one member of the
25 Library Board must be a school district administrator or administrator’s representative
26 [*Proposed Bylaws 1-5(a)*].
- 27 c. The full three-year term for members filling a vacancy was removed [*Current Bylaws 1-
28 4(c)*]. Vacancies will be filled in accordance with the Boards, Committees and
29 Commissions law [*Proposed Bylaws 1-5(c)*] [*1 O.C. 105.6 and 105.7*].
- 30 • The Boards, Committees and Commissions law does not dictate the term
31 length for vacancies; however, the Business Committee Support Office
32 (BCSO) has been filling vacancies for:
 - 33 a. The remainder of the unexpired term for vacancies resulting from
34 resignation or termination of appointment; or
 - 35 b. The full term for vacancies occurring at the end of a term.
 - 36 • At the end of a term, a member of the Library Board must remain in office
37 until the member’s successor has been sworn into office [*Proposed Bylaws 1-
38 5(a)(1)(A)*] which is optional under the Boards, Committees and Commissions
39 law [*1 O.C. 105.6-2(a)(1)*].
- 40 d. The resignation process has changed in accordance with the Boards, Committees and
41 Commissions law [*1 O.C. 105.6-2(d)*]. Resignations are now accepted:
 - 42 • Verbally and accepted by motion at a meeting; or
 - 43 • By delivering a written resignation to the Business Committee Support Office
44 (BCSO) and the Library Board Chairperson or Chairperson’s designee
45 [*Proposed Bylaws 1-5(a)(1)(B)*].
- 46 e. A provision was added requiring the Chairperson of the Library Board to provide the OBC
47 with recommendations on all applicants for appointment [*Proposed Bylaws 1-5(c)(1)*]
48 which is optional under the Boards, Committees and Commissions law [*1 O.C. 105. 7-
49 1(b)(1)*].
- 50 f. Additional qualifications for membership were added [*Proposed Bylaws 1-5(d)*]:
 - 51 • Must be a resident of Brown or Outagamie County;
 - 52 • Must be at least eighteen (18) years of age; and
 - 53 • Must not be a contractor or employee of any Oneida Community Library
54 Branch.
- 55 g. A definition was added for unexcused absence which requires written notice to a Library
56 Board Officer at least thirty (30) minutes before the meeting [*Proposed Bylaws 1-*

57 6(a)(2)(A)]. A process was added requiring that any recommendations for termination of
58 appointment must be determined by a majority vote at a Library Board meeting with an
59 established quorum [*Proposed Bylaws 1-6(b)*].

- 60 h. A section detailing required trainings and conferences was added to the bylaws to comply
61 with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(7)*]. The bylaws
62 contain a detailed list of required training and conferences that can be taken annually or as
63 needed with the qualification that training not exceed five (5) full days per member per
64 year [*Proposed Bylaws 1-7*].

65
66 B. ARTICLE II. OFFICERS

- 67 a. Additional duties of the Chairperson include [*Proposed Bylaws 2-2*]:
- 68 • Presenting or designating a Library Board member to present quarterly reports
69 to the OBC in accordance with the Boards, Committees and Commissions law
70 [*1 O.C. 105.12-3*];
- 71 b. Additional duties of the Secretary include [*Proposed Bylaws 2-4*]:
- 72 • Sign off on all expenditure approval statements and assist the Chairperson with
73 the submission of reports.
 - 74 • A provision was added that if both the Chairperson and the Vice-Chairperson
75 positions become vacant before the end of their terms; the Secretary shall call
76 and preside over a meeting until a new Chairperson and Vice-Chairperson is
77 elected at which point the Chairperson, or Vice-Chairperson in the absence of
78 the Chairperson, shall preside [*Proposed Bylaws 2-4(c)*]. In this instance the
79 Secretary's presence can be used to constitute quorum [*Proposed Bylaws 3-*
80 *4*].
- 81 c. Language was added that a Library Board member may be dismissed from their Officer
82 position by a majority vote of the Library Board members in attendance at a meeting of an
83 established quorum [*Proposed Bylaws 2-5(a)*].
- 84 d. Language was added restricting Library Board members from holding more than one
85 officer position at the same time [*Proposed Bylaws 2-5(b)*].
- 86 e. The budgetary and sign-off authority and travel section is new to these bylaws based on
87 requirements in the Boards, Committees and Commissions law.
- 88 • The Library Board will follow the Nation's policies and procedures for
89 purchasing and sign-off authority [*Proposed Bylaws 2-6*] even though these
90 processes do not pertain to the Library Board.
 - 91 • The Library Board will be required to audit and approve all expenditures of
92 the Oneida Library per Wisconsin State statutes.
 - 93 a. The Library Board Secretary will verify that expenditures have been
94 audited and approved by the Library Board and forward to the
95 appropriate designated department based on the Oneida Tribe of
96 Indians of Wisconsin Purchasing Manual for payment in accordance
97 with Wisconsin State requirements [*Proposed Bylaws 2-6(a)*].
 - 98 • The Library Board will approve and audit the regular salary and other recurring
99 payments as verified by the Oneida Community Library personnel at regular
100 board meetings.
 - 101 a. The Secretary of the Library Board will be required to sign off on all
102 expenditure approved statements and include a signed statement that
103 the expenditure was incurred and that the Library Board has audited
104 the expenditure [*Proposed Bylaws 2-6(b)*].
 - 105 • All travel must be authorized by the Secretary of the Library Board [*Proposed*
106 *Bylaws 2-6(a)(1)*] in accordance with the Travel and Expense Policy [*2 O.C.*

107 219.4-2]. All travel must be approved through majority vote of a quorum of
108 the Library Board in attendance at a regular or emergency Library Board
109 meeting [*Proposed Bylaws 2-6(c)*] in accordance with the Boards, Committees
110 and Commissions law [*1 O.C. 105.10-3(b)(6)(B)*]. Library Board members
111 may travel in the Nation’s vehicles when certified and must follow the Vehicle
112 Driver Certification and Fleet Management law [*2 O.C. 210*].
113

114 C. ARTICLE III. MEETINGS

- 115 a. A provision was added requiring notice of emergency meetings by official email and
116 telephone call [*Proposed Bylaws 3-2(a)*]. Official e-mail addresses are required for
117 conducting business of the entity electronically in accordance with the Boards, Committees
118 and Commissions law [*1 O.C. 105.14-3*].
- 119 b. A provision was added that the Library Board will notify the Nation’s Secretary within
120 seventy-two (72) hours with notice of the meeting, the reason for the emergency meeting,
121 and an explanation of why the matter could not wait for a regular meeting [*Proposed*
122 *Bylaws 3-2(b)*] per the Boards, Committees and Commissions law [*1 O.C. 105.10-*
123 *3(c)(2)(A)*].
- 124 c. A provision encouraging interested parties to attend regular meetings was removed
125 [*Current Bylaws 3-1(a)*].
- 126 d. The voting has changed; the Chairperson can now only vote in the case of a tie [*Proposed*
127 *Bylaws 3-6(a)*].
- 128 e. E-polls were added as an acceptable form of voting and will be conducted by the
129 Chairperson or the Vice-Chairperson when the Chairperson is absent or unavailable in
130 accordance with the Boards, Committees and Commissions law [*Proposed Bylaws 3-6(b)*]
131 and [*1 O.C. 105.10-3(c)(6)(C) and (D)*] and [*1 O.C. 105.11*].
132

133 D. ARTICLE IV. EXPECTATIONS

134 This section is new to these bylaws based on the requirements established in the Boards, Committees
135 and Commissions law [*1 O.C. 105.10-3(d)*].

- 136 a. Behavioral requirements were added to govern Library Board members while acting on
137 behalf of the Library Board. The Library Board included a Code of Conduct [*Proposed*
138 *Bylaws 4-1*] which will be required to be filed with the BCSO per requirements contained
139 in the Boards, Committees and Commissions law [*1 O.C. 105.12-2*]. Enforcement of
140 behavioral expectations includes [*Proposed Bylaws 4-1(a)*]:
- 141 • Recommendations to the OBC for termination of the member’s appointment must
142 be made by a majority vote at a meeting with an established quorum; and
 - 143 • Discipline a Library Board member in accordance with any state laws or laws of
144 the Nation governing sanctions or penalties governing appointed officials.
- 145 b. Intentional acts of violence that inflicts, attempts to inflict or threatens to inflict emotional
146 or bodily harm or damage to property are prohibited [*Proposed Bylaws 4-2*].
- 147 c. Drug and alcohol use by a Library Board member when acting in an official capacity as
148 members of the Library Board is forbidden [*Proposed Bylaws 4-3*]. The list of prohibited
149 drugs is the same as the list that is included in the Boards, Committees and Commissions
150 law [*1 O.C. 105.3-1(n)*].
- 151 d. Library Board members must follow the Nation’s Social Media Policy and their oath of
152 office. Additionally, the proposed bylaws include a provision that establishes that the
153 Library Board shall comply with any established requirements by their participation as a
154 member of the Nicolet Federated Library System under Wisconsin Statute 43.54 [*Proposed*
155 *Bylaws 4-4*].
- 156 e. The Library Board will be required to abide by the Nation’s Conflict of Interest law and
157 the Boards, Committees and Commissions law [*1 O.C. 105.10-3(d)(5) and 105.15*] which

158 includes disclosure and mitigation/removal of conflicts of interest annually. Additionally,
159 Library Board members must abide by any requirements related to conflicts of interest
160 imposed by their membership in the Nicolet Federated Library System under Wisconsin
161 Statute 43.54 [*Proposed Bylaws 4-5*].
162

163 E. ARTICLE V. STIPENDS AND COMPENSATION

- 164 a. This section details that members of the Library Board are eligible to receive stipends for
165 regular meetings, emergency meetings and conferences and trainings [*Proposed Bylaws 5-*
166 *1*]. This section complies with the Boards, Committees and Commissions law [*1. O.C.*
167 *105.10-3(e)*] and Resolution BC-05-08-19-B.
- 168 b. A provision was added that a stipend is available for each day of attendance at a conference
169 or training mandated by law, bylaws or resolution if the member attended or was present
170 for a full day [*Proposed Bylaws 5-1(b)*].
- 171 c. A provision was added that Library Board members are not eligible to receive any other
172 form of compensation besides travel, per diem and business-related expenses for activities
173 related to the Library Board [*Proposed Bylaws 5-2*] in accordance with the Boards,
174 Committees and Commissions law [*1 O.C. 105.13-9*].
175

176 F. ARTICLE VI. RECORDS AND REPORTING

- 177 a. The following provisions were removed from the current bylaws:
178
 - financial expense reporting [*Current Bylaws 4-5*];
 - travel reporting [*Current Bylaws 4-6*];
 - a provision governing subcommittees [*Current Bylaws 4-7*].
- 181 b. A provision was added that the agenda items will be consistently maintained in a format
182 that complies with the State of Wisconsin Open Meetings law [*Proposed Bylaws 6-1*].
- 183 c. A provision was added that the minutes will be typed in a format provided by the BCSO in
184 compliance with the State of Wisconsin's Open Meetings law [*Proposed Bylaws 6-2*].
185 Meeting minutes will be submitted to the BCSO within seven (7) days of Library Board
186 approval [*Proposed Bylaws 6-2*]. Meeting materials will be made available to the public
187 in accordance with the Open Records and Open Meetings law which states that any
188 requestor has the right make or receive a copy of a public record [*1 O.C. 107.7-2*].
- 189 d. A provision related to attachments was changed; the attachments will be included with
190 agenda items and other meeting materials from the meeting they were presented and
191 maintained by the Secretary [*Proposed Bylaws 2-4(a)*] in accordance with the Open
192 Records and Open Meetings law [*Proposed Bylaws 6-3*] [*1 O.C. 107.6-2*].
- 193 e. A provision was added that the Library Board will meet with the OBC liaison as often as
194 agreed upon between the Library Board and the liaison. The Library Board will contact
195 the liaison quarterly [*Proposed Bylaws 6-4*]. This complies with the Boards, Committees
196 and Commissions law [*1 O.C. 105.10-3(f)(4)*].
- 197 f. The Library Board will audio record meetings with a device supplied or approved by the
198 BCSO and the Chairperson or Chairperson's designee will maintain the audio recordings
199 in accordance with the State of Wisconsin and the Nation's laws governing open records;
200 executive session is exempt from audio recording requirements [*Proposed Bylaws 6-5*] in
201 accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(f)*] and
202 the Open Records and Open Meetings law [*1 O.C. 107.7-3*].
203

204 G. ARTICLE VI. AMENDMENTS

- 205 a. A provision was added requiring that amendments follow the Boards, Committees and
206 Commissions law and any other policy of the Nation and that the bylaws be reviewed
207 annually [*Proposed Bylaws 7-1*].

- The current bylaws require review at least once every three years [*Current Bylaws 5-2*].

SECTION 5. RELATED LEGISLATION

There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a detailed list of laws that establish duties and requirements of the Library Board in addition to laws referenced in the bylaws.

A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between these proposed bylaws and the Oneida Nation Constitution.

B. Boards, Committees and Commissions [1 O.C. 105]. This law establishes all requirements related to elected and appointed Boards, Committees and Commissions of the Nation. The law governs the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. The Library Board is appointed by the OBC [*Proposed Bylaws 1-5(b)*]. The requirements for entity bylaws are contained in this law as well as a requirement that all existing entities of the Nation comply with the format detailed in the law and present the bylaws for adoption by the OBC within a reasonable timeframe [*1 O.C. 105.10-3*]. These proposed bylaws comply with and there are no conflicts with the Boards, Committees and Commissions law.

C. Travel and Expense Policy [2 O.C. 219]. Members of the Library Board are eligible to be reimbursed for travel and per diem to attend a conference or training in accordance with this policy. All travel must be authorized by the Secretary of the Library Board [*Proposed Bylaws 2-6(a)(1)*] in accordance with the Travel and Expense Policy [*2 O.C. 219.4-2*]. The Library Board will approve all board travel by majority vote [*Proposed Bylaws 2-6(c)*] in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(b)(6)(B)*]. The proposed bylaws comply with and there are no conflicts with the Travel and Expense Policy.

D. Conflict of Interest [2 O.C. 217]. This law applies to the Library Board and establishes specific limitations to which information or materials that are confidential or may be used by a competitor of the Nation's enterprises or interests may be used to protect the interests of the Nation. The Boards, Committees and Commissions law establishes that amended bylaws require members to disclose potential or real conflicts annually [*1 O.C. 105.10-3(d)(5) and 105.15*]. The Library Board bylaws require the Library Board to follow all Conflict of Interest laws of the Nation as well as the State of Wisconsin in relation to the membership in the Nicolet Federated Library System [*Proposed Bylaws 4-5*]. Library Board members are also required to mitigate/remove any conflicts in accordance with the laws of the Nation and the laws of the State of Wisconsin [*Proposed Bylaws 4-5(a)*]. This aligns with the Conflict of Interest law of the Nation which allows for entities to outline further conflicts and prohibited activities resulting from those conflicts of interest [*2 O.C. 217.7-2*]. Penalties for failure to disclose conflicts of interest include termination of appointment in accordance with the Boards, Committees and Commissions law and enforcement of any penalties in accordance with the laws of the Nation [*2 O.C. 217.6-2 and 6-3*]. There are no conflicts between the proposed bylaws and the Conflict of Interest law.

E. Social Media Policy [2 O.C. 218]. This law applies to the Library Board and regulates the Nation's social media accounts including how content is managed and who has authority to post on social media on behalf of the Nation. Boards, committees and commissions of the Nation must register social media accounts with the Nation's Secretary's Office to include specific information related to access to the account, acknowledgment and compliance with the Computer Resources Ordinance and this policy,

258 use a Nation issued email address, and ensure all content complies with all applicable laws of the
259 Nation, state or federal laws. The bylaws identify that the Library Board must comply with the Social
260 Media Policy in accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-
261 3(d)(4)]. Additionally, the proposed bylaws require compliance with their oath of office and also
262 includes a provision that establishes that the Library Board shall comply with any requirements
263 established by their participation as a member of the Nicolet Federated Library System under Wisconsin
264 Statute 43.54 [Proposed Bylaws 4-4]. The proposed bylaws comply with and there are no conflicts
265 between the proposed bylaws and the Social Media Policy.
266

267 F. Computer Resources Ordinance [2 O.C. 215]. Library Board members are considered users under this
268 law and must comply with the established requirements to ensure appropriate use of the Nation's
269 computer resources. Members of the Library Board must sign an acknowledgment form indicating
270 notice of the Nation's applicable computer and media related laws according to the Boards, Committees
271 and Commissions law [1 O.C. 105.14-3(b)]. The proposed bylaws comply and there are no conflicts
272 with the Computer Resources Ordinance.
273

274 G. Open Records and Open Meetings [1 O.C. 107]. This law details how records must be maintained and
275 made available to the public and that meetings are open to the public unless specific criteria are met
276 which allow the meetings to be closed [1 O.C. 107.15 and 107.17]. Public notice of meetings is also
277 required by this law [1 O.C. 107.15-1]. The Library Board bylaws delegate public notice of meetings
278 to the Officers [Proposed Bylaws 3-1(b)] and maintenance of the minutes, reports and correspondence
279 to the Secretary [Proposed Bylaws 2-4(a)]. Chairperson or Chairperson's designee will maintain the
280 audio recordings [Proposed Bylaws 6-5]. Library Board meetings are open to the public except
281 portions that meet the exceptions in this law related to personnel matters or contracts are being
282 discussed and deemed confidential [1 O.C. 107.4]. Meeting minutes will be submitted to the BCSO
283 within seven (7) days of approval [Proposed Bylaws 6-2(b)] and made available to the public in
284 accordance with this law which states that any requestor has the right make or receive a copy of a public
285 record [1 O.C. 107.7-2]. The proposed bylaws comply and there are no conflicts between the proposed
286 bylaws and the Open Records and Open Meetings law.
287

288 H. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities [2
289 O.C. 210.3-1(g)] and individual members are considered officials [2 O.C. 210.3-1(j)] under this law
290 and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
291 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle of
292 the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials) to have
293 written consent from the BCC they serve on prior to being approved to use a Tribal vehicle [2 O.C.
294 210.6-1(b)(2)]. Certification includes providing the Human Resources Department with the
295 appropriate license, training certifications, and insurance information [2 O.C. 210.8-1]. Additionally,
296 BCC members must abide by all reporting requirements in this law [2 O.C. 210.9-2].

- 297 a. BCC members who violate this law may be subject to:
- 298 i. any laws regarding sanctions or penalties; and
 - 299 ii. termination of appointment following the Boards, Committees and Commissions
300 law [1 O.C. 105].
301

ONEIDA COMMUNITY LIBRARY BOARD BYLAWS

Article I. Authority

- 1-1. *Name.* The name of this body shall be "Oneida Community Library Board" hereinafter referred to as "Board."
- 1-2. *Authority.* The Board is delegated authority by the Oneida Business Committee pursuant to the authority delegated by the Constitution of the Oneida Tribe of Indians of Wisconsin, under Article IV., Section 1, Subsection (g) and is further recognized by the adoption of these bylaws by the Oneida Business Committee on April 3, 1996 as amended on November 13, 2013.
- 1-3. *Office.* The official office of the Board shall be:
Oneida Community Library
P.O. Box 365
201 Elm Street
Oneida, WI 54155
C/O Oneida Community Library Board
- 1-4. *Membership.*
- a. *Number of Board Members.* The Board shall consist of five (5) members.
 - b. *How Appointed.* Board members shall be appointed by the Oneida Business Committee in accordance with Tribal law governing boards, committees and commissions.
 - c. *Vacancies.* In case of vacancy, due to death, termination of appointment or resignation, the vacancy shall be filled by the Oneida Business Committee for a full three (3) year term in accordance with Tribal law governing boards, committees and commissions.
 - d. *Qualifications.* Any Tribal member whose name appears on the official roll of the Oneida Tribe of Indians of Wisconsin and is eligible to vote in accordance with the Tribal Constitution can serve on the Board. A Board member shall not be a consultant, contractor or staff of the Oneida Community Library
 - e. *Terms.* Members of the Board shall serve three (3) year terms.
 - f. *Termination of Appointment and Resignation.* Failure to attend three (3) consecutive meetings without an excused absence or five (5) meetings total within a term may be cause for termination of appointment. Any member desiring to resign from the Board shall submit their written resignation to the Board.
 - g. *Orientation.* Orientation for a new Board member shall be conducted at the first meeting the new Board member attends after being sworn in as a member of the Board.
- 1-5. *Purpose and Policy.*
- a. It is the purpose of the Board to monitor and advise programs and service and acquisitions of print and non-print materials provided to library clientele.
 - b. It is the policy of the Board to be self-supervised according to these bylaws. The Oneida Tribe shall remove itself from the activities of the Board.
 - c. Policy Statement of the Oneida Community Library Board: Supporting and endorsing the American Library Association's Library Bill of Rights and freedom to

read statement, the Board accepts that its purpose is to assist the Oneida General Tribal Council and library staff:

1. To provide quality library and information services to the people of the Oneida community as well as Brown and Outagamie county residents through the continuation of existing tribal, county and interlibrary system agreements.
2. To encourage and promote the development of library services to meet the informational, educational, cultural and recreational needs of the Oneida Community Library clients.
3. To develop policies which will protect the unique resources held by the Oneida Community Library, specifically those pertaining to the Oneida/Hotinonshonni and other Native American Nations.
4. To promote the use of meeting areas within the Oneida Community Library for socially useful and cultural activities.

Article II. Officers

- 2-1. *Officers.* The Board shall have three (3) officers: a chairperson, a vice chairperson and a secretary, who shall serve three (3) year terms.
- 2-2. *Chairperson.* The Chairperson of the Board shall:
 - a. Call and preside over meetings.
 - b. Receive, review and monitor all correspondence of the Board, present to the Board and sign all correspondence as approved by the Board.
 - c. Submit approved and signed Board meeting minutes, in conjunction with the Board Secretary, to the Oneida Tribal Secretary.
 - d. Submit quarterly reports to the Oneida Business Committee, annual and semi-annual reports to the General Tribal Council and any other reports as required or requested by the Oneida Business Committee or General Tribal Council, in conjunction with the Secretary of the Board.
 - e. Other duties as assigned by the Board.
- 2-3. *Vice Chairperson.* The Vice Chairperson shall perform the Chairperson's duties in the absence of the Chairperson.
- 2-4. *Secretary.* The Secretary shall maintain all minutes, reports and correspondence of the Board and preside over Board meetings in the absence of the Chairperson and the Vice Chairperson.
- 2-5. *How Chosen.* Election of officers shall take place at the first regular meeting after appointment.
- 2-6. *Personnel.* The Board does not have the authority to hire personnel for the benefit of the Board.

Article III. Meetings.

- 3-1. *Regular Meetings.* The Board shall meet the second Wednesday of each month. The meeting dates and location may change from time to time as determined by the Board but shall be within the Reservation boundaries unless the Board membership is notified prior to designating the meeting location. The Secretary shall provide notice of the agenda, documents, and minutes to the members prior to the start of the meetings.
 - a. All other interested parties shall be encouraged to attend.
 - b. The Board follows Roberts Rules of Order.

- c. Executive session shall be called as deemed necessary by the Board.
- 3-2. *Emergency Meetings.* The Chairperson or a majority of the Board may call an emergency meeting at any time provided twenty-four (24) hour notice is given by the Board Secretary.
- 3-3. *Quorum.* Three (3) members of the Board, including at least one (1) officer, shall constitute a quorum. If a quorum is not present within fifteen (15) minutes of the start time, the meeting shall be declared dismissed.
- 3-4. *Order of Business.* The order of business so far as applicable shall be:
 - a. Call to order
 - b. Roll Call
 - c. Agenda Approval
 - d. Minutes
 - e. New Business
 - f. Old Business
 - g. Executive Session
 - h. Adjournment
- 3-5. *Voting.* Each member, including the Chairperson, shall have one (1) vote. Any decision of the Board shall be by consensus voting.
- 3-6. *Stipends.* Board members shall be paid a meeting stipend in accordance with Tribal law governing boards, committees and commissions, provided that the meeting has established a quorum for a minimum of one (1) hour and the Board member collecting the stipend was present for at least one (1) hour of the established quorum.

Article IV. Reporting

- 4-1. *Reporting.* Agenda items shall be in a consistent format.
- 4-2. *Minutes.* Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the Board.
- 4-3. Handouts, memoranda, reports, etc. may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented.
- 4-4. The Board shall report to the Oneida Business Committee member who is designated as their liaison. This reporting format may be as the liaison directs, but may not be less than that required in any policy on report developed by the Oneida Business Committee or General Tribal Council. Reports shall be made within a reasonable time after a meeting is held, or as the Oneida Business Committee directs, provided that the request is to uphold the ability of the liaison to act as a support to the Board.
- 4-5. *Accountability.* The Board shall maintain accountability by requiring detailed written and itemized financial reports of all individuals who are assigned activities related to the Oneida Community Library. These reports shall include the following: Telephone, Mileage, Per Diem, Lodging and all other related expenses that were incurred or will be incurred by all parties who are requesting advance payment or reimbursement for any and all Oneida Community Library activity.
- 4-6. *Travel Reports.* Written travel reports shall be submitted to the Board by all parties who have traveled in regards to Oneida Community Library matters no later than ten (10) days from the date of travel.

- 4-7. *Sub-Committees.* Sub-committees of the Board may be appointed by the Chairperson to carry out a special mission when deemed necessary based on the recommendation of the Library Director and/or the Board. The sub-committee shall serve until the duties with which the sub-committee has been charged are completed and a report is given to the Library Director. The Library Director shall be an ex-officio member of all sub-committees of the Board.

Article V. Amendments

- 5-1. The Board, upon written notice, may at any of its regular meetings, by a consensus vote of the members present, adopt, amend, or repeal the bylaws provided that the proposed bylaws or repeal of the bylaws has been submitted in writing at a previous regular meeting. All such approved bylaws are subject to subsequent approval by the Oneida Business Committee.
- 5-2. At least once every three (3) years, the Board shall review these bylaws in order to determine that they are current.
- 5-3. Bylaws shall be filed in the Tribal Secretary's Office prior to their implementation.

These bylaws as amended and revised were adopted by the Oneida Community Library Board at a duly called meeting held on the 11 day of June, 2013. 2014

Carol L Elm Vice Chairperson

Carol Elm, Vice-Chairperson
Oneida Community Library Board

Approved by the Oneida Business Committee at a duly called meeting held on the 13th day of November, 2013.

Patricia Hoeft

Patricia Hoeft, Oneida Tribal Secretary
Oneida Business Committee

**ONEIDA COMMUNITY LIBRARY BOARD
BYLAWS**

Article I. Authority.

~~1-1.~~ **1-1. Name.** ~~_____~~ The name of this ~~body~~entity shall be ~~“the~~ Oneida Community Library Board~~”~~ and ~~_____~~ may hereinafter ~~be~~ referred to as ~~“the~~ Board~~”~~.

~~Authority.~~

~~1-2.~~ **1-2. Establishment.** The Board ~~is delegated authority~~was established by the Oneida Business Committee pursuant to the authority delegated by the Constitution of the Oneida Tribe of Indians of Wisconsin, under Article IV., Section 1, Subsection (g) and is further recognized by the adoption of these bylaws by the Oneida Business Committee on April 3, 1996 as amended on November 13, 2013.

~~1-3.~~ **Office.** The official office of the Board shall be:
Oneida Community Library
P.O. Box 365
201 Elm Street
Oneida, WI 54155
C/O Oneida Community Library Board

~~1-4.~~ **Membership.**

- ~~a.~~ **Number of Board Members.** The Board shall consist of five (5) members.
- ~~b.~~ **How Appointed.** Board members shall be appointed by the Oneida Business Committee (“OBC”) in ~~_____~~ accordance with Tribal law governing boards, committees and commissions.
- ~~c.~~ **Vacancies.** In case of vacancy, due to death, termination of appointment or resignation, the vacancy shall be filled by the Oneida Business Committee Wis. Stat., § 43.52 through its adoption of resolution BC-7-28-80 and its subsequent entry into an “Agreement for a full three (3) year term in accordance System Participation” with Tribal law governing boards, committees and commissions.
- ~~d.~~ **Qualifications.** Any Tribal member whose name appears on the official roll of the Oneida Tribe of Indians of Wisconsin and is eligible to vote in accordance with the Tribal Constitution can serve on the Board. A Board member shall not be a consultant, contractor or staff of the Oneida Community Library
- ~~e.~~ **Terms.** Members of the Board shall serve three (3) year terms.
- ~~f.~~ **Termination of Appointment and Resignation.** Failure to attend three (3) consecutive meetings without an excused absence or five (5) meetings total within a term may be cause for termination of appointment. Any member desiring to resign from the Board shall submit their written resignation to the Board.

~~g.~~ **Orientation.** Orientation for a new Board member shall be conducted the Nicolet Federated Library System by motion of the _____ OBC at the first its regular meeting the new Board member attends after being sworn in as a member of the Board. on July 20, 1981.

~~1-3.~~ **Authority.**

~~1-5.~~ **(a) Purpose and Policy.**

46 a. ~~It is the.~~ The purpose of the Board ~~is to monitor and advise programs and service and~~
47 ~~acquisitions~~ administer and oversee the

48 ~~administration~~ of ~~print and non-print materials provided to library clientele.~~

49 b. ~~It is the policy~~ Oneida Community Library in accordance with the
50 ~~laws~~ of the Board ~~to be self-supervised according to these bylaws.~~ The Oneida
51 ~~Tribe shall remove itself from the activities~~ Nation, Chapter 43 of the ~~Board.~~ Wisconsin Statutes,
52 and any policies adopted pursuant thereto.

53
54 e. (1) Policy Statement of the Oneida Community Library Board:
55 Supporting and endorsing the American Library Association's
56 Association's Library Bill of Rights and
57 freedom to read statement, the Board accepts that its
58 purpose is to assist the Oneida General Tribal
59 Council and library staff:

60 1. (A) To provide quality library and information services
61 to the people of the Oneida
62 community as well as Brown and
63 Outagamie county residents through the continuation of
64 existing tribal, county and interlibrary-inter-library system agreements.

65 2. (B) To encourage and promote the development of
66 library services to meet the
67 informational, educational, cultural and recreational needs of
68 the Oneida Community Library clients.

69 3. (C) To develop policies which will protect the unique
70 resources held by the Oneida Community Library;
71 specifically, those pertaining to the
72 Oneida/Hotinonshonni Haudenosaunee and other Native
73 American Nations.

74 4. (D) To promote the use of meeting areas within the
75 Oneida Community Library for socially
76 useful and cultural activities.

77 (b) Powers and Duties. The Board shall be responsible for:

78 (1) The monitoring of, and advising on, the programs, services and
79 acquisitions of print/non-print materials provided to Oneida
80 Community Library clientele.

81 (2) The carrying out of all powers and duties set forth in Wis. Stat., §
82 43.58, as well as any other law, rule, policy or contractual provision
83 created thereunder.

84 (3) The carrying out of any other authority delegated through the laws,
85 policies, rules and resolutions of the Nation.

86
87 1-4. Office. The official office location and mailing address of the Board shall be:

88 (a) Office Location:
89 Oneida Community Library
90 201 Elm Street
91 Oneida, WI 54155

- 92 (b) *Mailing Address:*
93 Oneida Community Library Board
94 P.O. Box 365
95 Oneida, WI 54115

96
97 1-5. *Membership.*

- 98 (a) *Number of Members.* The Board shall consist of five (5) members, one of
99 whom shall be a school district administrator or administrator's
100 representative.

- 101 (1) Each Board member shall hold office until his or her term expires,
102 until his or her resignation, or until his or her appointment is
103 terminated in accordance with the Boards, Committees and
104 Commissions law.

- 105 (A) *Term Expiration.* Although a member's term has expired, he
106 or she shall remain in office until a successor has been sworn
107 in by the Oneida Business Committee.

- 108 (B) *Resignation.* A member may resign at any time verbally at a
109 meeting or by delivering written notice to the Oneida
110 Business Committee Support Office and the Board
111 Chairperson or Chairperson's designee. The resignation is
112 deemed effective upon acceptance by motion of a member's
113 verbal resignation or upon delivery of the written notices.

- 114 (b) *Appointed.* Board members shall be appointed by the Oneida Business
115 Committee in accordance with the Boards, Committees and Commissions
116 law for terms of three (3) years.

- 117 (c) *Vacancies.* Any vacancy for an expired/unexpired term shall be filled by
118 appointment by the Oneida Business Committee.

- 119 (1) The Board Chairperson shall review application materials and
120 provide the Oneida Business Committee with recommendations on
121 applicants for appointment by the executive session in which
122 appointments are intended to be made.

- 123 (d) *Qualification for Membership.* Board members shall meet the following
124 qualifications:

- 125 (1) Must be an enrolled member of the Oneida Nation;
126 (2) Must be a resident of either Brown or Outagamie County;
127 (3) Must be at least eighteen (18) years of age; and
128 (4) Must not be a contractor or employee of any Oneida Nation Library
129 branch.

130
131 1-6. *Termination.* A Board member's appointment may be terminated by the Oneida Business
132 Committee in accordance with the Boards, Committees and Commissions
133 law or any other law of the Nation governing the termination of appointed
134 officials.

- 135 (a) The Board may make recommendations to the Oneida Business Committee
136 for the termination of a member's appointment based on the following:

- 137 (1) A failure to attend three (3) unexcused consecutive meetings;

138 _____ (2) A failure to attend five (5) unexcused meetings within a one (1) year
139 _____ period; and/or

140 _____ (A) An absence shall be deemed unexcused if a member fails to
141 _____ provide written notice of his or her absence to a Board
142 _____ Officer at least thirty (30) minutes prior to the missed
143 _____ meeting.

144 _____ (3) Other conduct detrimental to the Board or any Oneida Library
145 _____ branch.

146 _____ (b) Recommendations to the Oneida Business Committee for termination of a
147 _____ Board member's appointment must be determined by a majority vote of the
148 _____ Board members present at a meeting of an established quorum.

150 1-7. Trainings and Conferences. Board members shall participate in mandatory trainings/
151 _____ conferences as follows:

152 _____ (a) Wisconsin Library Association Annual Conference;

153 _____ (b) Association of Tribal Archives;

154 _____ (c) Libraries & Museums Annual Conference;

155 _____ (d) American Indian Library Association Training; and/or

156 _____ (e) American Library Association Conferences.

157 _____ (f) On an annual basis or as needed not to exceed five (5) full days per member.

158 _____ (g) Regardless of the number of trainings/conferences that he or she is required
159 _____ to attend, no Board member shall be eligible to receive stipends for
160 _____ attending more than five (5) full days of mandatory trainings/conferences
161 _____ per year.

163 Article II. Officers

164 2-1. Officers.— The Board shall have three (3) ~~officers: a chairperson, a vice chairperson~~
165 ~~and a secretary, who shall serve three (3) year terms.~~ Officer positions consisting of a Chairperson,
166 _____ a Vice-Chairperson and a Secretary.

168 ~~2-2.~~ 2-2. Responsibilities of the Chairperson. ~~The responsibilities, duties and limitations of~~
169 ~~the~~ Chairperson of the Board shall ~~be~~ as follows:

170 ~~a.~~ _____ (a) Call and preside over meetings.

171 ~~b.~~ _____ (b) Receive, review and monitor all correspondence of the Board,
172 present to the _____ Board and sign all correspondence as approved by the Board.

173 ~~e.~~ ~~Submit approved and signed Board meeting minutes, in conjunction with the Board~~
174 ~~Secretary, to the Oneida Tribal Secretary.~~

175 Submit _____ (c) Submit Board meeting minutes, in conjunction with the Board Secretary, to
176 _____ the Oneida Business Committee Support Office and maintain all recordings
177 _____ of Board meetings in accordance with the state's, as well as the Nation's,
178 _____ laws governing open records.

179 ~~d.~~ _____ (d) In conjunction with the Board Secretary, submit reports, as
180 requested by the _____ Oneida Business Committee; submit
181 quarterly reports to the Oneida _____ Business

182 Committee; and annual ~~and~~/semi-annual reports to the Oneida General _____ Tribal
183 Council ~~and any other reports~~, as required by the Boards, Committees and Commissions

184 _____ law, as well as Wis. Stat., § 43.58; and attend, or ~~requested by~~ designate a
 185 member of the _____ Board to attend, the Oneida Business Committee ~~or General~~
 186 Tribal Council, in conjunction with the Secretary of the Board, ~~meeting where the Board's~~
 187 _____ quarterly report appears on the agenda.

188 ~~Other duties as assigned by~~

189 ~~e.—2-3. Responsibilities of the Board.~~

190 ~~Vice—Chairperson. The~~ The responsibilities, duties and limitations of the _____ Vice—
 191 Chairperson ~~of the Board~~ shall ~~perform~~ be as follows:

192 ~~2-3.~~ (a) Perform the ~~Chairperson's~~ Chairperson's duties in the absence of the
 193 Chairperson.

195 ~~2-4. Responsibilities of the Secretary. The~~ The responsibilities, duties and limitations of the
 196 _____ Secretary of the Board shall ~~maintain~~ be as follows:

197 (a) Maintain all minutes, reports and correspondence of the Board in
 198 accordance with governing law, including, but not limited to, the Boards,
 199 Committees and Commissions law and the state's, as well as the Nation's,
 200 laws governing open records.

201 (b) Sign-off all expenditure approval statements referenced in section 2-6 of
 202 these bylaws and assist the Board Chairperson with the submission of
 203 reports referenced in section 2-2 of these bylaws.

204 ~~2-4.~~ (c) In the event that both the Chairperson and the Vice-Chairperson
 205 positions _____ become vacant before the end of their terms,
 206 call Board meetings to fill the _____ vacancies and preside over ~~Board meetings in~~
 207 ~~the absence of the Chairperson and the Vice Chairperson,~~ those meetings for the sole purpose of
 208 _____ conducting an election of new Officers, at which point the Chairperson, or
 209 _____ Vice-Chairperson in the absence of the Chairperson, shall preside.

210 ~~How Chosen. Election~~

211 ~~2-5.—2-5. Selection of officers~~ Officers. An election of Officers shall take place annually at the
 212 first regular meeting ~~after appointment.~~

213 ~~2-6.—Personnel. The Board does not have~~ beginning of _____ the authority to hire
 214 personnel for the benefit of the Board.

216 ~~fiscal year~~ **Article III. Meetings.**

217 ~~3-1.—Regular Meetings. The Board shall meet the second Wednesday of each month. The~~
 218 meeting dates and location may change from time to time as determined by the Board but
 219 shall be within the Reservation boundaries unless the Board membership is notified prior
 220 to designating the meeting location. ~~The Secretary shall provide notice of the agenda,~~
 221 documents, and minutes to the members prior to the start of the meetings.

222 a. ~~All other interested parties shall be encouraged to attend.~~

223 b. ~~The Board follows Roberts Rules of Order.~~

224 c. ~~Executive session shall be called as deemed necessary by the Board.~~

225 ~~3-2.—Emergency Meetings. The Chairperson /or a majority of the Board may call an emergency~~
 226 meeting at any time provided twenty four (24) hour notice is given by the Board Secretary.

227 ~~3-3.—Quorum. Three (3) members of the Board, including at least one (1) officer, shall constitute~~
 228 a quorum. ~~If a quorum is not present within fifteen (15) minutes of the start time, the meeting~~
 229 shall be declared dismissed.

230 3-4. ~~Order of Business.~~ The order of business so far as applicable shall be:

231 a. ~~Call to order~~

232 b. ~~Roll Call~~

233 c. ~~Agenda Approval~~

234 d. ~~Minutes~~

235 e. ~~New Business~~

236 f. ~~Old Business~~

237 g. ~~Executive Session~~

238 h. ~~Adjournment~~

239 3-5. ~~Voting.~~ Each ~~when a~~ member, including the ~~Chairperson,~~ shall have one (1) vote. Any
240 decision of the Board shall be by consensus voting. is appointed for terms of one (1) year.

241 3-6. ~~Stipends.~~ (a) A Board member may be dismissed from his or her Officer
242 position by a majority vote of the Board members shall be
243 paid in attendance at a meeting stipend in accordance with Tribal law governing boards,
244 committees and commissions, provided that the meeting has of an
245 established a quorum for a minimum of.

246 (b) Board Officers may only hold one (1) hour and the Board member
247 collecting the stipend was present for at least one (1) hour of the established quorum. Officer
248 position per Officer term.

249

250 **Article IV. Reporting**

251 4-1. ~~Reporting.~~ Agenda items shall be in a consistent format.

252 4-2. ~~Minutes.~~ Minutes shall be typed and in a consistent format designed to generate the most
253 informative record of the meetings of the Board.

254 4-3. ~~Handouts, memoranda, reports, etc. may be attached to the minutes and agenda, or may~~
255 ~~be kept separately, provided that all materials can be identified to the meeting in which~~
256 ~~they were presented.~~

257 4-4. ~~The Board shall report to the Oneida Business Committee member who is designated as~~
258 ~~their liaison. This reporting format may be as the liaison directs, but may not be less than~~
259 ~~that required in any policy on report developed by the Oneida Business Committee or~~
260 ~~General Tribal Council. Reports shall be made within a reasonable time after a meeting is~~
261 ~~held, or as the Oneida Business Committee directs, provided that the request is to uphold~~
262 ~~the ability of the liaison to act as a support to the Board.~~

263 4-5. ~~Accountability.~~ The Board shall maintain accountability by requiring detailed written and
264 itemized financial reports of all individuals who are assigned activities related to the
265 Oneida Community Library. These reports shall include the following: Telephone,
266 Mileage, Per Diem, Lodging and all other related expenses that were incurred or will be
267 incurred by all parties who are requesting advance payment or reimbursement for any and
268 all Oneida Community Library activity.

269 4-6. ~~Travel Reports.~~ Written travel reports shall be submitted to the Board by all parties who
270 have traveled in regards to Oneida Community Library matters no later than ten (10) days
271 from the date of travel.

272 4-7. ~~Sub-Committees.~~ Sub-committees of the Board may be appointed by the Chairperson to
273 carry out a special mission when deemed necessary based on the recommendation of the
274 Library Director and/or the Board. The sub-committee shall serve until the duties with
275 which the sub-committee has been charged are completed and a report is given to the

~~Library Director. The Library Director shall be an ex officio member of all sub-committees of the Board.~~

Article V. Amendments

~~5-1. The Board, upon written notice, may at any of its regular meetings, by a consensus vote of the members present, adopt, amend, or repeal the bylaws provided that the proposed bylaws or repeal of the bylaws has been submitted in writing at a previous regular meeting. All such approved bylaws are subject to subsequent approval by the Oneida Business Committee.~~

~~5-2. At least once every three (3) years, the Board shall review these bylaws in order to determine that they are current.~~

~~5-3. Bylaws shall be filed in the Tribal Secretary's Office prior to their implementation.~~

~~These bylaws as amended and revised were adopted by the Oneida Community Library Board at a duly called meeting held on the _____ day of _____, 2013.~~

~~Danielle White, Chairperson
Oneida Community Library Board~~

~~Approved2-6. *Budgetary Sign-Off Authority and Travel.* The Board shall follow the Oneida Nation's _____ policies and procedures regarding purchasing and sign-off authority.~~

~~(a) *Levels of Budgetary Sign-Off Authority.* The Board shall audit and approve all expenditures of the public library and forward the bills or vouchers covering the expenditures, setting forth the name of each claimant or payee, the amount of each expenditure, and the purpose for which it was expended, to the person designated under the Nation's policies and procedures to issue payment for such expenditures.~~

~~(1) The Board shall include a statement, signed by the Board Secretary, that the expenditure has been incurred and that the Board has audited and approved the expenditure.~~

~~(A) Upon receiving the information referenced within this section 2-6, the person designated by the Nation's policies and procedures to issue payment for the expenditures shall then pay the bill as others are paid.~~

~~(b) *Regular Wages/Recurring Payments.* Regular wages/salary or other recurring payments, authorized by the Board and verified by the appropriate Oneida Community Library personnel, may be paid by the person designated under the Nation's policies and procedures to issue such payments by the date due or, in the case of salaries, by the regular pay day.~~

~~(1) The Board shall audit and approve payments under this subsection (b) at its next regular meeting.~~

- (c) The Board shall approve a member's request to travel by majority vote of its members in attendance at a regular or emergency Board meeting of an established quorum.

2-7. Personnel. Subject to approval by the Oneida Business Committee under the governing laws of the Nation, the Board shall have the authority set forth in Wis. Stat., § 43.58 to hire personnel for the benefit of the Board.

Article III. Meetings~~at a duly called~~

3-1. Regular Meetings. The Board shall meet the 2nd Wednesday of each month, commencing at 4:30 p.m., at the Oneida Community Library located on 201 Elm Street in Oneida, Wisconsin.

- (a) The regular meeting date, time and/or location may change from time-to-time as determined by majority vote of the members in attendance at a Board meeting of an established quorum so long as notice is provided to all members in writing and, along with the public, in accordance with the Nation's and the State of Wisconsin's open records/open meetings laws, prior to the implementation of a new date, time and/or location.

- (b) Notice of meeting location, agenda, minutes and materials shall be forwarded by the Chairperson with the assistance of the Vice-Chairperson and/or the Secretary to all members of the Board in writing and, along with the public, in accordance with the Nation's and the State of Wisconsin's open records/open meetings laws.

- (c) Meetings shall be run in accordance with Robert's Rules of Order.

3-2. Emergency Meetings. An emergency meeting may be called when time sensitive issues require immediate action.

- (a) The Chairperson or Chairperson's designee shall provide advance notice of emergency meetings to all Board members via telephone call, as well as email communication sent to the official Oneida Nation email address provided to each member to conduct business electronically on behalf of the Board, and, along with the public, shall further be provided notice in accordance with the Nation's and the State of Wisconsin's open records/open meetings laws.

(b) Within seventy-two (72) hours after an emergency meeting held on the day of _____, 2013., the Board shall provide the Nation's Secretary with notice of the emergency meeting, the _____ reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular meeting.

Patricia Hoefft, Oneida Tribal Secretary

3-3. Joint Meetings. Joint Meetings between the Board and the Oneida Business Committee shall not be held.

368 3-4. *Quorum.* A quorum shall consist of a majority of the current Board members and shall
 369 include an Officer; provided, the Secretary shall only qualify as an Officer
 370 for purposes of this section 3-4 when presiding over meetings called
 371 pursuant to section 2-4(c) of these bylaws.

372
 373 3-5. *Order of Business.* The order of business, as far as applicable, is:

- 374 (a) Call to Order
- 375 (b) Adopt the Agenda
- 376 (c) Approval of Minutes
- 377 (d) Old Business
- 378 (e) New Business
- 379 (f) Reports
- 380 (g) Other Business
- 381 (h) Executive Session
- 382 (i) Adjournment

383
 384 3-6. *Voting.* A simple majority vote of the members in attendance at a meeting of an
 385 established quorum is a required for all actions of the Board.

- 386 (a) The Board Chairperson or presiding Officer shall only vote in case of a tie.
- 387 (b) E-polls are permissible so long as conducted in accordance with the Boards,
 388 Committees and Commissions law.
 - 389 (1) The Vice-Chairperson shall serve as the Chairperson's designee for
 390 the responsibility of conducting an e-poll when the Chairperson is
 391 absent or unavailable.

392 - 393 **Article IV. Expectations**

394 4-1. *Behavior of Members.* Board members shall adhere to the Oneida Community Library
 395 Board Code of Conduct, these bylaws and any other applicable state laws
 396 and/or laws of the Nation while acting on behalf of the Board.

- 397 (a) *Enforcement.* Any violation of this or any other section of these bylaws may
 398 result in the following:
 - 399 (1) Upon a majority vote of the members present at a Board meeting of
 400 an established quorum, the Board may make a recommendation to
 401 the Oneida Business Committee for the termination of that Board
 402 member's appointment in accordance with the Boards, Committees
 403 and Commissions law or any other law of the Nation governing the
 404 termination of appointed officials.
 - 405 (2) The Board may discipline that Board member in accordance with
 406 any state laws or laws of the Nation governing sanctions and
 407 penalties for appointed officials.

408
 409 4-2. *Prohibition of Violence.* Board members are prohibited from committing any violent
 410 intentional act that inflicts, attempts to inflict, or threatens to inflict
 411 emotional or bodily harm on another person, or damage to property.

412

413 4-3. *Drug and Alcohol Use.* When acting in their official capacity as members of the Board, the
 414 use of alcohol or prohibited drugs is forbidden.

415 (a) Prohibited drugs are defined as marijuana, cocaine, opiates, amphetamines,
 416 phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics,
 417 any other substances included in Schedules I through V under Section 812
 418 of Title 21 of the United States Code, and prescription medication or over-
 419 the-counter medicine used in an unauthorized or unlawful manner.

421 4-4. *Social Media.* When using social media on behalf of or as a representative of the Board,
 422 members shall comply with any laws or policies of the Nation governing
 423 social media; their oaths of office; and any other applicable laws, rules,
 424 policies and/or contractual provisions promulgated and applied to the Board
 425 pursuant to participation as a member of the Nicolet Federated Library
 426 System under Wis. Stat., § 43.54.

428 4-5. *Conflict of Interest.* Conflicts of interest of Board members shall be governed by all
 429 applicable laws and policies of the Nation, as well as any laws, rules,
 430 policies and/or contractual provisions promulgated and applied to the Board
 431 pursuant to its participation as a member of the Nicolet Federated Library
 432 System under Wis. Stat., § 43.54.

433 (a) Conflicts of interest shall be reported and mitigated/removed in accordance
 434 with the applicable laws and policies of the Nation, as well as any laws,
 435 rules, policies and/or contractual provisions promulgated and applied to the
 436 Board pursuant to its participation as a member of the Nicolet Federated
 437 Library System under Wis. Stat., § 43.54.

439 **Article V. Stipends and Compensation**

440 5-1. *Stipends.* Board members are eligible to receive a stipend for the following so long as
 441 in accordance with these bylaws, the Boards, Committees and Commissions
 442 law, and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-
 443 18-D Boards, Committees and Commissions Law Stipends, as may further
 444 be amended from time-to-time hereafter:

445 (a) One (1) meeting stipend per month, whether called as a regular meeting or
 446 emergency meeting, provided that:

447 (1) A quorum was established;

448 (2) The meeting of the established quorum lasted for at least one (1)
 449 hour; and

450 (3) The Board member requesting the stipend was physically present
 451 for the entire meeting.

452 (b) A stipend for each day of attendance at a conference or training, provided
 453 that:

454 (1) The Board member attended a full day of training or was present at
 455 the conference for a full day; and

456 (2) The Board member's attendance at the training or conference was
 457 mandated by law, bylaws or resolution.

458 (c) A stipend for attending a Judiciary hearing if the member's attendance was
 459 required by official subpoena.

460
 461 5-2. Compensation. Besides travel, per diem and business expense reimbursement authorized
 462 by the Boards, Committees and Commissions law and Wis. Stat., § 43.54,
 463 members of the Board shall not be eligible to receive any other form of
 464 compensation for duties/activities they perform on behalf of the Board.

465 -
 466 **Article VI. Records and Reporting**

467 6-1. Agenda Items. Agenda items shall be consistently maintained in a format that complies
 468 with the State of Wisconsin's Open Meetings Law.

469
 470 6-2. Minutes. Meeting minutes shall be typed and in a consistent format designed by the
 471 Oneida Business Committee Support Office and in compliance with the
 472 State of Wisconsin's Open Meetings Law to generate the most informative
 473 record.

474 (a) Minutes shall include a summary of action taken by the Board.

475 (b) Minutes shall be submitted to the Oneida Business Committee Support
 476 Office within seven (7) days of approval.

477
 478 6-3. Attachments. Any handouts, reports, memorandum and the like provided at a meeting
 479 shall be included with the agenda items and other meeting material in
 480 which they were presented and maintained in accordance with the Nation's
 481 and the State of Wisconsin's open records/open meetings laws.

482
 483 6-4. Oneida Business Committee Liaison. The Board shall meet with the member of the Oneida
 484 Business Committee who is its designated liaison as needed, the frequency
 485 and format of which may be as agreed upon between the liaison and the
 486 Board so long as no less than as required by law or policy on reporting
 487 developed by the Oneida Business Committee or Oneida General Tribal
 488 Council.

489 (a) The Board shall contact the liaison quarterly.

490
 491 6-5. Audio Recordings. All meetings of the Board shall be recorded using a device supplied or
 492 approved by the Oneida Business Committee Support Office.

493 (a) Audio recordings shall be maintained by the Chairperson or the Chair-
 494 person's designee in accordance with the Nation's and the State of
 495 Wisconsin's open records/open meetings laws.

496 (b) Exception. Audio recordings of executive session portions of a meeting
 497 shall not be required.

498
 499
 500 **Article VII. Amendments**

501 7-1. Amendments. Amendments to these bylaws shall be approved by a majority vote of the
 502 members in attendance at a regular Board meeting of an established
 503 quorum.

504 (a) Amendments to these bylaws shall conform to the requirements of the
505 Boards, Committees and Commissions law, any applicable state law, and
506 all other governing policies of the Nation.

507 (b) Amendments shall be approved by the Oneida Business Committee before
508 implementation.

509 (c) The Board shall conduct a review of these bylaws on an annual basis.

510

511 -

512



Legislative Operating Committee
September 18, 2019

ONVAC Bylaws Amendments

Submission Date: 9/6/17	Public Meeting: n/a
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a Expires: n/a

Summary: *Last term ONVAC requested amendments to its bylaws that would allow regular emergency meetings to be called by the Chairperson with at least 24 hours’ notice to all members of ONVAC and allow members to be paid a meeting stipend of \$100.00 in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions. It was decided that the bylaws would not be processed until amendments to the Comprehensive Policy Governing Boards, Committees and Commissions were adopted. On September 26, 2018, the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law) was amended through adoption of resolution BC-09-26-18-C.*

9/6/17 LOC: Motion by Daniel Guzman King to add ONVAC By-Laws Amendments to the active files list as a low priority with Jennifer Webster as the sponsor; Seconded by Ernest Stevens III. Motion carried.

11/1/17 LOC: Motion by Kirby Metoxen to approve the 60-day active files list update and continue development of all the items on the active files list; Seconded by Ernest Stevens III. Motion carried.

9/26/18 OBC: Motion by Lisa Summers to adopt resolution BC-09-26-18-C Amendments to the Comprehensive Policy Governing Boards, Committees and Commissions with two (2) changes: [1] request that the language in line 84 of the resolution be changed to a six (6) month deadline to complete the new by-laws; and 2) to eliminate the postmark allowance referenced in lines 112-114 of draft 3]; Seconded by David P. Jordan. Motion carried.

Per resolution BC-09-26-18-C: “The Oneida Business Committee directs that boards, committees, and commissions of the Nation shall have six (6) months from the adoption of [the Amendments to the Comprehensive Policy Governing Boards, Committees, and Commissions (“Law”)] to present bylaws for adoption. Within thirty (30) days, the Legislative Reference Office shall provide at least two (2) informational bylaw meetings with the various boards, committees, and commissions of the Nation. The purpose of the informational bylaws meetings will be for the Legislative Reference Office to: a. provide an

update on the revised bylaw requirements as a result of the amendments to the Law; b. provide a template for the development of revised bylaws; and c. offer assistance to boards, committees, and commissions in the development and drafting of updated bylaws.”

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brooke Doxtator (OBCSO), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (OTEC/Library), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Pow wow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elm (SEOTS), Diane Hill (SEOTS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

1/31/19: *LOC Work Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to discuss the progress, in general, of the Nation’s boards, committees and commissions on getting their bylaws amended and their likelihood of meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to have the LOC draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards, committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee seeking an extension of the March 26, 2019 bylaws amendments deadline and to forward the memorandum to the Oneida Business

Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda for consideration; Seconded by Kirby Metoxen. Motion carried.

2/22/19:

OBC Work Session. Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions By-Laws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting, the LRO Staff Attorney assigned this item provided a status update on the progress of the boards, committees and commissions on the amending of their bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work session to provide a progress report on the boards, committees and commissions' bylaws amendments.

3/19/19:

OBC Work Session. Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman-King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions on the amending of their bylaws to conform to the Boards, Committees and Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LRO to draft a memo for the next LOC meeting to be forwarded to the OBC indicating the same.

**During its subsequent review of the Oneida Gaming Commission's proposed bylaws amendments, the OBC decided to add the following requirements to all of the boards, committees and commissions' bylaws amendments: (1) that, the recommendations for termination be by a majority vote of the members in attendance at a meeting of the entity's established quorum; (2) that, notice of meetings be provided to all members of the entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual, and that, two (2) of the entity's Officers be required to sign-off on all such purchases; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) to allow members to be dismissed (not removed as initially proposed) from their Officer positions by a simple majority vote of the entity; (5) that, the entities review their bylaws each time a vacancy is filled by a new member; (6) that, stipend amounts not be listed in the entity's bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the joint meeting section of the entity's bylaws.*

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

3/28/19: *LOC Work Meeting.* Present: Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Ernest Stevens III, Jennifer Falck, Rosa Laster. The purpose of this work meeting was for the LOC to go through ONVAC's proposed bylaws amendments, as reviewed and revised by the LRO Staff Attorney, to flag any policy issues that the LOC felt warranted further discussion/vetting at a future OBC work session. This was done in accordance with a directive from the OBC on February 27, 2019 that all bylaws be reviewed by the OBC during an OBC work session to consider the policy issues flagged by the LOC before being added to an OBC meeting agenda for formal presentation and possible adoption

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernest Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments. During this meeting, the OBC also decided that all boards, committees and commissions must add the word "titled" next to the name of the purchasing manual they are required to reference in the "sign-off" section of their bylaws to provide clarification on why the term "Oneida Tribe of Indians" is being used instead of the "Nation".

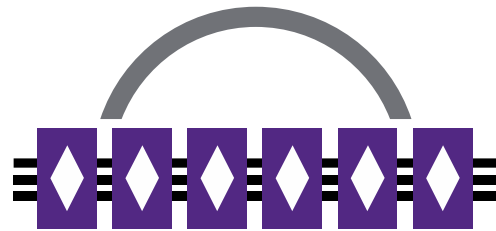
5/1/19: *LOC Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation's boards, committees and commissions' bylaws amendments before the Oneida Business Committee for adoption.

7/29/19-7/30/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions' bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Oneida Nation Veterans Affairs Committee Bylaws Amendments.
- Forward the Oneida Nation Veterans Affairs Committee Bylaws Amendments to the Oneida Business Committee for consideration.

Oneida Nation Veterans Affairs Committee By-Laws



ONEIDA

ONVAC

**For anything not covered by these by-laws, please refer to the
Oneida Nation
Title 1. Government and Finances – Chapter 105
BOARDS, COMMITTEES AND COMMISSIONS**

**ONEIDA NATION
VETERANS AFFAIRS
COMMITTEE**

MISSION STATEMENT

Our Mission is to provide quality support service and assistance to our Oneida Veterans and their families.

We are the principal advocates for Veterans and their families and we accept the responsibility to protect the integrity of the Veterans Community.

We advocate for the Veterans and their families within the Oneida Community by representing their needs and causes as they relate to our Veterans individually and as veterans organizations.

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1
2 **ONEIDA NATION VETERANS AFFAIRS COMMITTEE**
3 **BYLAWS**
4

5 **Article I. Authority**

6 1-1. *Name.* The name of this entity shall be the Oneida Nation Veterans Affairs
7 Committee and may be referred to as the Veterans Affairs Committee or
8 abbreviated ONVAC.

9 1-2. *Establishment.* ONVAC was created by the Oneida Business Committee by motion on
10 January 12, 1994 and further established through the adoption of these
11 bylaws on October 29, 1997, which were amended on February 13, 2013
12 and from time-to-time hereinafter.
13

14 1-3. *Authority.*

15 (a) *Purpose.* The purpose of the Veterans Affairs Committee is to serve as an
16 advisory body to the Oneida Veterans Service Office (“Office”) in all
17 matters relating to Oneida Nation Veterans’ rights and benefits and
18 veterans’ affairs issues, and to protect the honor and integrity of the Oneida
19 Nation and all veterans who served honorably in the United States
20 Uniformed Services. Among other services, the Veterans Affairs
21 Committee is to provide advice and constructive input to the Oneida
22 Veterans Service Office Director on all veterans’ affairs issues so that the
23 Office can formulate veterans’ services and programs; and to coordinate
24 veterans’ events with the Office and veterans’ organizations that are
25 representatives of Oneida Veterans and the Oneida Nation.

26 (b) *Powers and Duties.* The powers of the Veterans Affairs Committee are
27 advisory, with duties that include, but are not limited to, the following:

28 (1) Supporting the Oneida Veterans Service Office and the Oneida
29 Nation.

30 (2) Being responsible to the Oneida Business Committee, all Oneida
31 Nation Veterans and their families, and the Oneida Community.

32 (3) Supporting the Office in the provision and coordination of all
33 veterans services to the Oneida Community and as requested by
34 local, state, federal, other tribal activities and/or events and veterans
35 associations, such as the Color/Honor Guard, funerals, parades,
36 school visits and presentations.

37 (4) *Color Guard.* The ONVAC is the official Color Guard of the Oneida
38 Nation. The ONVAC may appoint other endorsed or approved
39 veterans or veteran groups in order to fulfill any Oneida Nation
40 requests. This duty may be delegated to the Oneida Veterans Service
41 Officer who also has direct contact with Oneida Veterans and the
42 active veterans’ organization.

43 (A) *Designate Representatives.* The ONVAC and the Oneida
44 Veterans Service Office Director shall verify the authenticity
45 of groups or individuals who wish to represent Oneida
46 Nation Veterans.

- 47 (5) *Financial Requests.* The ONVAC shall be the screening body for
 48 individual veterans or veteran groups who are requesting funds from
 49 the Oneida Nation for various reasons such as: (1) to alleviate a
 50 financial hardship; (2) to provide a veterans service or event, such
 51 as the Veterans Pow-Wow, a seminar, training or a conference; and
 52 (3) to attend a veterans related project, event, training, seminar, and/
 53 or some other activity, such as a military reunion.
 54 (6) Responding to and acting upon any other delegated authority
 55 established through the laws, policies, rules and resolutions of the
 56 Oneida Nation.

57
 58 1-4. *Office.* The official mailing address of the Veterans Affairs Committee shall be:
 59 Oneida Nation Veterans Affairs Committee
 60 ATTN: Veterans Service Office
 61 P.O. Box 365
 62 Oneida, Wisconsin 54155

- 63
 64 1-5. *Membership.*
 65 (a) *Number of Members.* The ONVAC shall consist of nine (9) appointed
 66 members.
 67 (1) Each member shall hold office until his or her term expires, until his
 68 or her resignation, or until his or her appointment is terminated in
 69 accordance with the Boards, Committees and Commissions law.
 70 (A) *Term Expiration.* Although a member's term has expired, he
 71 or she shall remain in office until a successor has been sworn
 72 in by the Oneida Business Committee.
 73 (B) *Resignation.* A member may resign at any time verbally at a
 74 meeting or by delivering written notice to the Oneida
 75 Business Committee Support Office and the ONVAC
 76 Chairperson or Chairperson's designee. The resignation is
 77 deemed effective upon acceptance by motion of a member's
 78 verbal resignation or upon delivery of the written notices.
 79 (b) *Appointment.* ONVAC members shall be appointed in accordance with the
 80 Boards, Committees and Commissions law for terms of three (3) years.
 81 (1) Terms shall be staggered with appointments to be started on the first
 82 day of the year (1/1) and ending on the last day of the year (12/31).
 83 (c) *Vacancies.* Vacancies shall be filled in accordance with the Boards,
 84 Committees and Commissions law.
 85 (1) The ONVAC Chairperson shall review application materials and
 86 provide the Oneida Business Committee with recommendations on
 87 applicants for appointment by the executive session in which
 88 appointments are intended to be made.
 89 (d) *Qualifications of Members.* ONVAC members shall meet the following
 90 qualifications:
 91 (1) Be an enrolled member of the Oneida Nation.
 92 (2) Be a resident of Brown or Outagamie County, Wisconsin.

- 93 (3) Have served on and Honorably Discharged (Form DD-214
 94 Required) from Active Duty in the United States Uniformed
 95 Services (Army, Navy, Air Force, Marines, Coast Guard, Public
 96 Health Service or National Oceanic and Atmospheric
 97 Administration).
 98 (A) Active Duty is defined as having served one hundred and
 99 eighty-one (181) days or more of continuous active duty
 100 unless discharged early, with less than one hundred and
 101 eighty-one (181) days of active duty, because of a service-
 102 connected disability.
- 103 (4) Have served as a member of the Selected Reserve and completed
 104 at least six (6) years in the Reserves or the National Guard or was
 105 discharged early because of a service-connected disability.
- 106 (5) Be a citizen in good standing in the Oneida Community.
 107
- 108 1-6. *Termination.* An ONVAC member’s appointment may be terminated by the Oneida
 109 Business Committee in accordance with the Boards, Committees and
 110 Commissions law.
- 111 (a) The Veterans Affairs Committee may make recommendations to the Oneida
 112 Business Committee for the termination of a member’s appointment based
 113 on the following:
- 114 (1) A failure to comply with these bylaws or with any other law and/or
 115 policy of the Nation;
- 116 (2) Three (3) un-excused absences from an ONVAC meeting within a
 117 period of one (1) year.
- 118 (A) An un-excused absence shall be defined as a failure by a
 119 member to notify a Board Officer, in writing, of his or her
 120 pending absence no less than thirty (30) minutes before the
 121 scheduled meeting.
- 122 (b) Recommendations to the Oneida Business Committee for termination of an
 123 ONVAC member’s appointment must be determined by a majority vote of
 124 the members in attendance at an ONVAC meeting of an established
 125 quorum.
 126
- 127 1-7. *Training and Conferences.* ONVAC members shall attend and participate in various
 128 trainings and/or conferences that the ONVAC Chairperson or a majority of
 129 the members in attendance at an ONVAC meeting of an established quorum
 130 deem necessary for members to responsibly serve ONVAC and/or maintain
 131 the knowledge, skills and abilities required of them to perform the on-going
 132 activities relating thereto.
- 133 (a) Regardless of the number of trainings/conferences that he or she is required
 134 to attend, no ONVAC member shall be eligible to receive stipends for
 135 attending more than five (5) full days of mandatory trainings/conferences
 136 per year.
 137

138 **Article II. Officers and Administrative Support**

139 2-1. *Officers.* The Officer positions of the Veterans Affairs Committee shall consist of a
140 Chairperson, a Vice-Chairperson and a Secretary.

141
142 2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the
143 Chairperson are as follows:

144 (a) Shall call and preside over all meetings of the Veterans Affairs Committee
145 and appoint members to any task forces or subcommittees of the ONVAC
146 in accordance with section 3-4 of these bylaws.

147 (b) Shall have financial sign-off authority as set forth in section 2-6 of these
148 bylaws.

149 (c) Shall submit, or through a designee submit, annual and semi-annual reports
150 to the Oneida General Tribal Council, as well as quarterly reports to the
151 Oneida Business Committee, in accordance with the Boards, Committees
152 and Commissions law.

153 (d) Shall represent and/or request another Officer to represent the ONVAC at
154 all regularly scheduled/unscheduled reporting requirements to the Oneida
155 Business Committee and other business units of the Nation as may be
156 requested, including, but not limited to, the Oneida Business Committee
157 meeting in which the ONVAC's quarterly report appears on the agenda.

158 (e) In collaboration with the Vice-Chairperson, Secretary and personnel from
159 the Oneida Veterans Services Office, shall prepare agendas and handouts,
160 submit any necessary paperwork to ensure stipends are paid, and perform
161 other similar administrative functions, all in accordance with these bylaws,
162 the Boards, Committees and Commissions law, and the Open Records and
163 Open Meetings law.

164
165 2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of
166 the Vice-Chairperson are as follows:

167 (a) Shall preside over all meetings of the Veterans Affairs Committee in the
168 absence of the Chairperson and may call emergency meetings.

169 (b) Shall have financial sign-off authority as set forth in section 2-6 of these
170 bylaws.

171 (c) In lieu of the Chairperson, shall represent and/or request another Officer
172 to represent the ONVAC at all regularly scheduled/unscheduled reporting
173 requirements to the Oneida Business Committee and other business units of
174 the Nation as may be requested, including, but not limited to, the Oneida
175 Business Committee meeting in which the ONVAC's quarterly report
176 appears on the agenda.

177 (d) In collaboration with the Chairperson, Secretary and personnel from the
178 Oneida Veterans Services Office, shall prepare agendas and handouts,
179 submit any necessary paperwork to ensure stipends are paid, and perform
180 other similar administrative functions, all in accordance with these bylaws,
181 the Boards, Committees and Commissions law and the Open Records and
182 Open Meetings law.

183

- 184 2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the
185 Secretary are as follows:
- 186 (a) In the event that both the Chairperson and the Vice-Chairperson positions
187 become vacant before the end of their terms, shall be allowed to call
188 meetings of the ONVAC to fill the vacancies and to preside over those
189 meetings for the sole purpose of conducting an election of new Officers, at
190 which point the Chairperson, or Vice-Chairperson in the absences of the
191 Chairperson, shall preside.
- 192 (b) Shall have financial sign-off authority as set forth in section 2-6 of these
193 bylaws.
- 194 (c) In lieu of both the Chairperson and Vice-Chairperson, shall represent the
195 ONVAC at all regularly scheduled/unscheduled reporting requirements to
196 the Oneida Business Committee and other business units of the Nation as
197 may be requested, including, but not limited to, the Oneida Business
198 Committee meeting in which the ONVAC's quarterly report appears on the
199 agenda.
- 200 (d) Shall provide notice of meeting locations, agendas and minutes; prepare
201 meeting minutes, correspondence, written reports, including the annual,
202 semi-annual and quarterly reports required by the Boards, Committees and
203 Commissions law; and perform other duties on behalf of the Veterans
204 Affairs Committee as scheduled and/or required by a majority vote of the
205 members at an ONVAC meeting of an established quorum, all in
206 accordance with these bylaws, the Boards, Committees and Commissions
207 law, and the Open Records and Open Meetings law.
- 208 (e) In collaboration with the Chairperson, Vice-Chairperson and personnel
209 from the Oneida Veterans Services Office, shall prepare agendas and
210 handouts, submit any necessary paperwork to ensure stipends are paid, and
211 perform other similar administrative functions, all in accordance with these
212 bylaws, the Boards, Committees and Commissions law, and the Open
213 Records and Open Meetings law.
- 214
- 215 2-5. *Selection of Officers.* Officers of the Veterans Affairs Committee shall be elected on an
216 annual basis by a majority vote of the members in attendance at an ONVAC
217 meeting of an established quorum for terms of one (1) year.
- 218 (a) The election of Officers shall take place within thirty (30) days after the
219 newly appointed ONVAC members are present at their first scheduled
220 regular meeting of an established quorum.
- 221 (b) ONVAC members may be dismissed from their Officer position by majority
222 vote of the members in attendance at an ONVAC meeting of an established
223 quorum.
- 224 (c) Vacant Officer positions shall be filled by majority vote of the members in
225 attendance at an ONVAC meeting of an established quorum.
- 226 (d) Members of the ONVAC shall not hold more than one (1) Officer position
227 per Officer term.
- 228
- 229 2-6. *Budgetary Sign-Off Authority and Travel.* ONVAC shall follow the Nation's policies and
230 procedures regarding purchasing and sign-off authority.

- 231 (a) Levels of budgetary sign-off authority for the ONVAC shall be as set forth
 232 in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*
 233 *Policies and Procedures*, for Area Directors/Enterprise Directors.
 234 (1) All ONVAC Officers shall have sign-off authority.
 235 (2) Two (2) of the ONVAC Officers are required to sign-off on all
 236 budgetary requests.
 237 (b) The Oneida Business Committee Support Office shall have sign-off
 238 authority over requests for stipends, travel per diem and business expense
 239 reimbursements.
 240 (c) ONVAC shall approve a member’s request to travel on behalf of ONVAC
 241 by a majority vote of the members in attendance at a regular or emergency
 242 ONVAC meeting of an established quorum.
 243

244 2-7. *Personnel.*

The Veterans Affairs Committee shall not have authority to hire personnel for its benefit.

- 246 (a) ONVAC may receive administrative support from staff within the Oneida
 247 Business Committee Support Office and the Oneida Veterans Service
 248 Office that is consistent with the Boards, Committees and Commissions law
 249 for items such as preparing meeting agendas, documents and minutes;
 250 providing notice of meetings, meeting agendas, documents and minutes;
 251 recording meetings and meeting minutes; maintaining meeting agendas,
 252 documents and minutes; and submitting any necessary paperwork to
 253 facilitate stipend payments.
 254

255 **Article III. Meetings**

256 3-1. *Regular Meetings.* The regular meetings of the Veterans Affairs Committee shall be held
 257 every second Tuesday of each month, commencing at 5:00 p.m., in the
 258 Veterans Department located at 134 Riverdale Drive in Oneida, Wisconsin.

- 259 (a) The meeting date, time and/or place shall be reviewed by the ONVAC and
 260 may change from time-to-time by majority vote of the members in
 261 attendance at an ONVAC meeting of an established quorum so long as
 262 notice is provided to all members in writing and, along with the public, in
 263 accordance with governing law, including, but not limited to, the Open
 264 Records and Open Meetings law, prior to the implementation of a new date,
 265 time and/or location.
 266 (1) Meeting locations shall be within the Reservation boundaries unless
 267 notice is provided to all members in writing and, along with the
 268 public, consistent with governing law, prior to designating the
 269 meeting location.
 270 (b) The ONVAC Officers and personnel from the Oneida Veterans Services
 271 Office shall work collaboratively to ensure all members, along with the
 272 public, are provided notice of meeting location, agenda, documents and
 273 minutes pursuant to these bylaws, as well as the Open Records and Open
 274 Meetings law, and that the meeting agenda, documents and minutes are
 275 prepared and packaged for the ONVAC members consistent with the
 276 Boards, Committees and Commissions law.

- 277 (c) Meetings shall be run in accordance with Robert's Rules of Order and shall
278 be open to the public per the Open Records and Open Meetings law.
279
- 280 3-2. *Emergency Meetings.* An emergency meeting may be called for the purpose of addressing
281 an emergent need relative to the work of the ONVAC that requires a
282 determination/decision unable to await until the monthly scheduled meeting
283 of the ONVAC.
- 284 (a) Within seventy-two (72) hours after an emergency meeting, the ONVAC
285 shall provide the Nation's Secretary with notice of the emergency meeting,
286 the reason for the emergency meeting, and an explanation as to why the
287 matter could not wait until the next regular scheduled meeting.
- 288 (b) Subject to section 2-4(a) of these bylaws, emergency meetings may be
289 called by any ONVAC Officer upon at least twenty-four (24) hour advance
290 notice to all members of the Veterans Affairs Committee.
- 291 (1) Notice of an emergency meeting shall be provided to all ONVAC
292 members via telephone call, as well as by e-mail communication
293 sent, with a RSVP request, to the official Oneida Nation e-mail
294 address given to each member to conduct ONVAC business
295 electronically, and, along with the public, shall further be provided
296 in accordance with the Open Records and Open Meetings law.
- 297 (2) A quorum must be present at the emergency meeting in order to take
298 any action.
- 299 (c) Minutes of emergency meetings shall be taken, recorded electronically, and
300 approved for the record at the next scheduled monthly ONVAC meeting.
301
- 302 3-3. *Joint Meetings.* Joint Meetings may be held in the Oneida Business Committee Conference
303 Room of the Norbert Hill Center as frequently as agreed upon between the
304 Oneida Business Committee and the ONVAC.
- 305 (a) Notice of the joint meeting agenda, documents and minutes shall be
306 provided, and the joint meeting conducted, in accordance with resolution
307 BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with
308 Boards, Committees and Commissions – Definitions and Impact, as may be
309 amended from time-to-time hereafter.
310
- 311 3-4. *Task Forces and Subcommittees.* Task forces and subcommittees of the ONVAC may be
312 created and dissolved when necessary so long as in accordance with the
313 Boards, Committees and Commissions law.
- 314 (a) The Chairperson shall be an ex officio member of all task forces and sub-
315 committees.
- 316 (b) A task force created by the ONVAC shall dissolve upon either a set date or
317 acceptance of a final report by the ONVAC at its next scheduled monthly
318 meeting.
- 319 (1) At a minimum, task forces created by the ONVAC must have
320 mission or goal statements for completion of tasks.
- 321 (2) Materials generated by the task force shall be forwarded to the
322 Oneida Business Committee Support Office for proper disposal
323 within two (2) weeks of dissolution.

- 324
325 3-5. *Quorum.* All meetings of the ONVAC shall have at least a quorum in attendance,
326 with quorum being defined as five (5) ONVAC members, one (1) of which
327 is an ONVAC Officer; provided, the Secretary may only complete a quorum
328 for meetings called pursuant to section 2-4(a) of these bylaws.
329 (a) A quorum shall be established at least five (5) minutes before the scheduled
330 meeting time.
331 (1) Failure to establish a quorum will result in rescheduling of the
332 meeting.
333
- 334 3-6. *Order of Business.* The order of business shall be:
335 (a) Call to Order/Opening Ceremony
336 (b) Approval of Agenda
337 (c) Approval of Minutes
338 (d) Task Force and Subcommittee Reports or Reports by Invited Guests
339 (e) Old Business/Tabled Business
340 (f) New Business
341 (g) Veteran Service Officer Report (FYI)
342 (h) Public Comment (5-minute limit per speaker per subject)
343 (i) Executive Session
344 (j) Other Additional Agenda Items and/or Reports by Individual ONVAC
345 Members
346 (k) Adjournment
347
- 348 3-7. *Voting.* Decisions of the ONVAC shall be by majority vote of the members in
349 attendance at an ONVAC meeting of an established quorum.
350 (a) Each of the nine (9) ONVAC members, including the Chairperson, shall
351 be entitled to one (1) vote on each matter submitted to a vote of the ONVAC.
352 (b) E-polls are permissible so long as conducted in accordance with the Boards,
353 Committees and Commissions law.
354 (1) The Vice-Chairperson shall serve as the Chairperson's designee for
355 the responsibility of conducting an e-poll in the absence or
356 discretion of the Chairperson.
357

358 **Article IV. Expectations**

- 359 4-1. *Behavior of Members.*
360 (a) Members of the ONVAC shall present and conduct themselves in a
361 professional manner when acting in their official capacity as members of
362 the ONVAC by, among other actions, speaking in a respectful and
363 courteous manner to ONVAC members, as well as non-members, and
364 dressing in appropriate attire when attending meetings and/or other
365 ONVAC events.
366 (b) No member shall act independently of the ONVAC, on behalf of the
367 ONVAC, or express and/or represent views of the ONVAC without its
368 specific approval as established by a majority vote of the members present
369 at an ONVAC meeting of an established quorum.

- 370 (c) Members shall prepare for and attend all meetings of the ONVAC unless
371 excused in accordance with these bylaws.
- 372 (d) Members shall comply with these bylaws and all other laws and/or policies
373 of the Nation
- 374 (e) *Enforcement.* Any action by a member contrary to the above shall be
375 discussed at the next ONVAC regularly scheduled monthly meeting or
376 emergency meeting and appropriate warnings and/or actions may be taken
377 by the ONVAC as agreed upon by a majority vote of the ONVAC members
378 in attendance at the monthly or emergency meeting of an established
379 quorum, including, but not limited to:
- 380 (1) That the ONVAC may make a recommendation to the Oneida
381 Business Committee for termination of the member's appointment
382 in accordance with the Boards, Committees and Commissions law
383 or any other law of the Nation governing the termination of
384 appointed officials.
- 385 (2) That the ONVAC may discipline the member in accordance with
386 any law of the Nation governing sanctions and penalties for
387 appointed officials.
388
- 389 4-2. *Prohibition of Violence.* ONVAC members are prohibited from participating in or
390 committing any intentional acts of violence that inflict, attempt to inflict, or
391 threaten to inflict emotional or bodily harm on another person or damage to
392 property. No intentional act of violence will be tolerated and/or accepted by
393 any member of the ONVAC while acting in an official capacity as a member
394 of the ONVAC.
395
- 396 4-3. *Drug and Alcohol Use.* ONVAC members shall not use any alcohol, illegal drugs or legal
397 drugs, other than as prescribed/directed, while acting in their official
398 capacity as members of the ONVAC.
399
- 400 4-4. *Social Media.* Expectations for use of social media is for official business of the ONVAC
401 (a) While engaged in social media activities, no member shall use his or her
402 status on the ONVAC for individual gain or purpose.
403 (b) Members of the ONVAC shall comply with the Oneida Nation's Social
404 Media Policy and their oath of office when using social media while acting
405 on behalf of or as a representative of the ONVAC.
406
- 407 4-5. *Conflict of Interest.* ONVAC members shall comply with all laws and policies of the Nation
408 governing conflicts of interest.
- 409 (a) Members on the ballot for an Officer position with the ONVAC shall recuse
410 themselves from voting on the position for which they are running to fill.

411 **Article V. Stipends and Compensation**

- 412 5-1. *Stipends.* ONVAC members shall be eligible for the following stipends as set forth in
413 and subject to these bylaws, the Boards, Committees and Commissions law,
414 and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-

- 415 D Boards, Committees and Commissions Law Stipends, as may be further
416 amended from time-to time-hereafter:
- 417 (a) One (1) meeting stipend per month, provided that:
- 418 (1) A quorum was established;
- 419 (2) The meeting of the established quorum lasted for at least one (1)
420 hour; and
- 421 (3) The member collecting the stipend was physically present for the
422 entire meeting.
- 423 (b) A stipend for attending a duly called joint meeting between the ONVAC
424 and the Oneida Business Committee, provided that:
- 425 (1) A quorum was established by the ONVAC;
- 426 (2) The joint meeting lasted for at least one (1) hour; and
- 427 (3) The ONVAC member collecting the stipend was physically present
428 for the entire joint meeting.
- 429 (c) For attending a conference or training, provided that:
- 430 (1) The member attended a full day of training or was present at the
431 conference for a full day; and
- 432 (2) The member's attendance at the training or conference was required
433 by law, bylaws or resolution.
- 434 (d) A stipend for attending a Judiciary hearing if the member's attendance at
435 the Judiciary hearing was required by official subpoena.
- 436 (e) Task force and subcommittee members shall not be eligible for stipends
437 unless specific exception is made by the Oneida Business Committee or the
438 Oneida General Tribal Council.
- 439
- 440 5-2. *Compensation.* Besides travel, per diem and business expense reimbursements authorized
441 by the Boards, Committees and Commissions law, ONVAC members shall
442 not be eligible for any other form of compensation for duties/activities they
443 perform on behalf of the ONVAC.
444

445 **Article VI. Records and Reporting**

- 446 6-1. *Agenda Items.* Agenda items shall be consistently maintained in the format identified in
447 Article III, section 3-6 of these bylaws as the Order of Business.
448
- 449 6-2. *Minutes.* Meeting minutes of the ONVAC shall be typed in a consistent format
450 provided by the Oneida Business Committee Support Office to generate the
451 most informative record of all meetings of the ONVAC.
- 452 (a) The minutes shall provide a summary of the action(s) taken by the ONVAC
453 during the meeting that includes the decision, any motions and/or
454 amendments, the vote and any other pertinent information that would lend
455 to the record.
- 456 (b) Minutes shall be submitted to the Oneida Business Committee Support
457 Office within thirty (30) days of their approval by the ONVAC.
458
- 459 6-3. *Attachments.* All meeting handouts, reports, memorandum and the like shall be attached
460 to the minutes and agenda to be maintained as a packet upon submission to
461 the Oneida Business Committee Support Office.

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6-4. *Oneida Business Committee Liaison.* All three (3) Officers of the ONVAC shall be made aware of the need to meet with the Oneida Business Committee member who is ONVAC’s designated liaison and any and/or all of the Officers may meet with the liaison on an as-needed basis, the frequency and format of which may be as agreed upon between the liaison and the Officers so long as no less than as required by law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council.

(a) The purpose of the liaison relationship is to uphold the ability of the liaison to act as support to the ONVAC.

6-5. *Audio Recordings.* All meetings of the ONVAC shall be audio recorded using a recording device approved of and/or supplied by the Oneida Business Committee Support Office.

(a) Audio recordings shall be maintained by the Oneida Business Committee Support Office in accordance with the Open Records and Open Meetings law.

(b) *Exception.* Audio recordings of executive session portions of a meeting shall not be recorded.

Article VII. Amendments.

7-1. *Amendments.* The Veterans Affairs Committee, upon written notice, may at any of its regular meetings, by a majority vote of the members present at a meeting of an established quorum, amend or repeal these bylaws, provided that, the amendment or repeal has been submitted in writing at the previous regular meeting.

(a) Any amendments to these bylaws shall conform to the requirements of the Boards, Committees and Commissions law and any other policy of the Nation.

(b) All amendments and/or repeals of these bylaws shall be approved by the Oneida Business Committee prior to implementation.

(c) These bylaws shall be reviewed on an annual basis.

These bylaws, as amended and revised, are hereby adopted by the Oneida Nation Veterans Affairs Committee at a duly called meeting on this _____ day of _____, 2019.

James D. Martin, Chairman
Oneida Nation Veterans Affairs Committee

And approved by the Oneida Business Committee at a duly called meeting held on this _____ day of _____ 2019, by the Secretary of the Oneida Business Committee’s signature.

Lisa Summers, Tribal Secretary
Oneida Business Committee



Oneida Nation Veterans Affairs Committee Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: Jennifer Webster	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These amendments comply with the Oneida Business Committee (OBC) directive established by resolution BC-09-26-18-C that all boards, committees and commissions of the Nation; excluding the OBC or standing committees of the OBC and Tribal corporations, amend their bylaws to comply with the requirements established by the Boards, Committees and Commissions law. Additional information and requirements included in these bylaws beyond what is required in the Boards, Committees and Commissions law is not prohibited [1 O.C. 105.10].		
Intent of the Bylaws	The bylaws provide a framework for the operation and management of the Oneida Nation Veterans Affairs Committee (ONVAC) to govern the standard procedures regarding the way the committee conducts its affairs, including: the appointment of persons to the committee, the membership qualifications, duties and responsibilities of both members and officers, terms and filling vacancies of members, selection of officers, establishment of expectations of members, maintenance of official records, stipends, termination process, required training and how the bylaws are amended.		
Purpose	It is the purpose of the ONVAC to serve as an advisory body to the Oneida Veterans Service Office in all matters related to Oneida Nation veteran's rights and benefits and veteran's affairs issues, and to protect the honor and integrity of the Oneida Tribe and all veterans who served honorably in the United States Armed Forces. The ONVAC provides advice and constructive input to the Veterans Service Office Director on all veterans' affairs issues to assist the office with formulating veteran services and programs for the Oneida Veterans. The ONVAC coordinates veteran events with the assistance of the Veterans Service Office and other organized groups that are representatives of Oneida Veterans and the Oneida Nation [Proposed Bylaws 1-3(a)].		
Related Legislation	Oneida Nation Constitution, Boards, Committees and Commissions law, Travel and Expense Policy, Conflict of Interest law, Social Media Policy, Computer Resources Ordinance, Open Records and Open Meetings law		
Enforcement/Due Process	An ONVAC member is appointed to serve at the discretion of the OBC. Upon the recommendation of a member of the OBC or by majority vote of the ONVAC, a member of the ONVAC may have his or her appointment terminated by the OBC. A two-thirds majority vote of the OBC is required to terminate the appointment of an individual. The OBC's decision to terminate an appointment is final and not subject to appeal [1 O.C. 105-7.4].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

2 **SECTION 2. BACKGROUND**

- 3 A. The ONVAC bylaws amendments were added to the active files list on September 6, 2017, with
4 Jennifer Webster as the sponsor.
5 B. The ONVAC was created by motion of the OBC on January 12, 1994, and by adoption of the bylaws
6 on October 29, 1997, which were most recently amended on February 13, 2013.
7

8 **SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW**

- 9 A. The bylaws comply with the Boards, Committees and Commissions law.
10 B. The bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-18-
11 D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
12 amounts and eligibility requirements of stipends.
13 C. The bylaws comply with OBC Resolution BC-03-27-19-D titled “Oneida Business Committee and
14 Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.

15
16 **SECTION 4. AMENDMENTS**

17 This section details the changes to the bylaws from the previously adopted bylaws.

18 **A. ARTICLE I. AUTHORITY**

- 19 a. The resignation process has changed in accordance with the Boards, Committees and
20 Commissions law [1 O.C. 105.6-2(d)]. Resignations are now accepted:
21 • Verbally and accepted by motion at a meeting; or
22 • By delivering a written resignation to the Business Committee Support Office
23 (BCSO) and the ONVAC Chairperson or Chairperson’s designee [Proposed
24 Bylaws 1-5(a)(1)(B)].
25 b. A provision was added that the Chairperson will make a recommendation to fill vacancies
26 on behalf of the ONVAC [Proposed Bylaws 1-5(c)(1)]. This is optional in the Boards,
27 Committees and Commissions law [1 O.C. 105. 7-1(b)(1)].
28 c. The qualification section has changed to include the requirement of being a resident of
29 Brown or Outagamie Counties [Proposed Bylaws 1-5(d)(2)].
30 d. The Boards, Committees and Commissions law authorizes the ONVAC to recommend a
31 member’s appointment be terminated by the OBC [1 O.C. 105.7-4]. Recommendation for
32 a members’ termination of appointment must be by majority vote of the ONVAC at a
33 meeting with an established quorum for the following reasons [Proposed Bylaws 1-6(a)]:
34 • Failure to comply with bylaws or any other law or policy of the Nation; and
35 • Three (3) un-excused absences in one year.
36 • A provision was added defining an un-excused absence as failure to notify an
37 ONVAC Officer, in writing, of his or her pending absence no less than thirty
38 (30) minutes before the scheduled meeting [Proposed Bylaws 1-6(a)(2)(A)].
39 e. A provision was added that recommendations to the OBC for termination of an ONVAC
40 member’s appointment must be determined by a majority vote of the members in
41 attendance at an ONVAC meeting with an established quorum [Proposed Bylaws 1-6(b)].
42 f. A trainings and conferences section has been added to the bylaws [Proposed Bylaws 1-7]
43 to comply with the Boards, Committees and Commissions law [1 O.C. 105.10-3(7)]. The
44 ONVAC will require participation in trainings or conferences by majority vote at a meeting
45 with a quorum. Additionally, each member of the ONVAC will only be allowed to receive
46 stipends for five (5) full days of training regardless of how many days of training are
47 mandated by the ONVAC [Proposed Bylaws 1-7(a)].

48
49 **B. ARTICLE II. OFFICERS AND ADMINISTRATIVE SUPPORT**

- 50 a. A provision was added to requiring the Chairperson or designee to submit all required
51 reports to the General Tribal Council and the OBC [*Proposed Bylaws 2-2(c)*] in accordance
52 with the Boards, Committees and Commissions law [*1 O.C. 105.12-2 and 12-4*].
- 53 b. Provisions were added to require the Chairperson, or Vice-Chairperson or Secretary at the
54 Chairperson's discretion, to attend all regularly scheduled/unscheduled reporting
55 requirements, including OBC meetings, where the ONVAC reports are on the agenda
56 [*Proposed Bylaws 2-2(d) and 2-3(c) and 2-4(c)*] in accordance with the Boards,
57 Committees and Commissions law [*1 O.C. 105.12-3*].
- 58 c. A provision was added that if both the Chairperson and the Vice-Chairperson positions
59 become vacant before the end of their terms; the Secretary shall call and preside over a
60 meeting until a new Chairperson and Vice-Chairperson is elected at which point the
61 Chairperson, or Vice-Chairperson in the absence of the Chairperson, shall preside
62 [*Proposed Bylaws 2-4(a)*]. In this instance the Secretary's presence can be used to
63 constitute quorum [*Proposed Bylaws 3-4*].
- 64 d. A provision was added that the Secretary will provide notice of meetings, agenda and
65 minutes and prepare correspondence and written reports and perform duties on behalf of
66 the Committee as assigned by majority vote of the ONVAC at an ONVAC meeting with
67 an established quorum [*Proposed Bylaws 2-4(d)*] in accordance with the Boards,
68 Committees and Commissions law [*1 O.C. 105.10-3(f)*] and the Open Records and Open
69 Meetings law [*1 O.C. 107.15*].
- 70 e. Provisions were added that officers may be dismissed from their position and vacant officer
71 positions will be filled by a majority vote at an established meeting with a quorum, and
72 members of the ONVAC can only hold one officer position at a time [*Proposed Bylaws 2-*
73 *5(b) and (c)*].
- 74 f. The budgetary and sign-off authority levels have increased. Previous levels were \$3,000
75 budgeted and \$1,000 unbudgeted for both the Chairperson and the Vice-Chairperson
76 [*Current Bylaws 2-1(a) and (b)*].
- 77 • The ONVAC will use levels for budgetary sign-off authority in the Oneida
78 Tribe of Indians of Wisconsin Purchasing Policies and Procedures Manuel for
79 Area Directors/Enterprise Directors. All ONVAC Officers will have sign-off
80 authority and two (2) Officers must sign-off on budgetary requests, including
81 stipends and expenses. The BCSO will have sign-off authority over requests
82 for stipends, travel per diem and business expense reimbursements [*Proposed*
83 *Bylaws 2-6(b)*].
 - 84 i. Although not applicable to the ONVAC; the ONVAC will
85 follow the budgetary sign-off levels dictated by the Oneida
86 Tribe of Indians of Wisconsin Purchasing Policies and
87 Procedures Manuel for Area Directors/Enterprise Directors,
88 page 217, which includes the following levels of sign-off
89 authority:
 - 90 1. Budgeted items with three bids for items between
91 \$3,000 and \$10,000;
 - 92 2. Unbudgeted items between \$1,000 and \$5,000; and
 - 93 3. Budgeted but sole source items between \$1,000 and
94 \$5,000.
 - 95 • All travel must be authorized by two (2) Officers [*Proposed Bylaws 2-6(a)(2)*]
96 in accordance with the Travel and Expense Policy [*2 O.C. 219.4-2*]. All travel
97 must be approved through majority vote of a quorum of the ONVAC in
98 attendance at a regular or emergency ONVAC meeting [*Proposed Bylaws 2-*
99 *6(c)*] in accordance with the Boards, Committees and Commissions law [*1*
100 *O.C. 105.10-3(b)(6)(B)*]. The ONVAC members may travel in the Nation's

101 vehicles when certified and must follow the Vehicle Driver Certification and
 102 Fleet Management law [2 O.C. 210].

103 g. A provision was added clarifying that the ONVAC does not have authority to hire
 104 personnel for the benefit of the ONVAC. The current bylaws are silent regarding
 105 personnel. Additionally, the BCSO was added to the bylaws to assist the ONVAC with
 106 administrative duties [Proposed Bylaws 2-7].

107
 108 **C. ARTICLE III. MEETINGS**

Meetings in Current Bylaws [Article III]	Meetings in Proposed Bylaws Amendments [Article III]
Regular Meetings <ul style="list-style-type: none"> Regularly Scheduled –Once Monthly 	Regular Meetings <ul style="list-style-type: none"> Regularly Scheduled – once monthly
Emergency Meetings or Special Meetings <ul style="list-style-type: none"> Twenty-Four (24) Hour Notice 	Emergency Meetings <ul style="list-style-type: none"> Twenty-Four (24) Hour Notice Special Meetings were removed.
Standing or Special Committee Meetings <ul style="list-style-type: none"> Created by appointment of the Chairperson and meet as often as necessary. Serve until the duties it has been assigned are discharged or a final report is given. 	Task Forces or Sub Committees <ul style="list-style-type: none"> Created as necessary. Created by ONVAC and dissolved on a set date or acceptance of a final report.
	Joint Meetings <ul style="list-style-type: none"> As frequently as agreed upon with the OBC.

109
 110 a. Public notice of meetings collaboratively by the ONVAC Officers and personnel from the
 111 Oneida Veterans Services Office was added to the bylaws [Proposed Bylaws 3-1(b) and
 112 (c)] in accordance with the Open Records and Open Meetings law [1 O.C. 107.15-1].
 113 b. A provision was added per the Boards, Committees and Commissions law that the ONVAC
 114 will notify the Nation’s Secretary within seventy-two (72) hours of holding an emergency
 115 meeting with notice and reason for the emergency meeting as well as an explanation of
 116 why the matter could not wait for a regular meeting [Proposed Bylaws 3-2(a)] in
 117 accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-
 118 3(c)(2)(A)]. Notice of emergency meetings to all members of the ONVAC by official email
 119 provided by the Nation and telephone call was added [Proposed Bylaws 3-2(b)(1)]. The
 120 minutes for emergency minutes will be taken and approved for the record at the next
 121 scheduled monthly ONVAC meeting [Proposed Bylaws 3-2(c)].

122 c. The bylaws contain joint meetings with the OBC [Proposed Bylaws 3-3] on an as needed basis, with the approval of the OBC in compliance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(c)(3)]. Joint meetings will be held in the OBC conference room. The meeting notice, agenda documents and minutes for joint meetings will be provided and the joint meetings will be conducted in accordance with OBC Resolution BC-03-27-19-D titled “Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.

- The agenda will be agreed upon by the ONVAC Chairperson upon the ONVAC approval and the OBC liaison with OBC approval;
- The BCSO will provide all parties the agenda, meeting packet and meeting notes;
- No action will take place at the joint meeting; and if it is agreed that further action is needed, either the OBC or the ONVAC, or both, will take the issue back to their respective meetings for action through the OBC liaison to the OBC or the Chairperson of the ONVAC;
- The Chairperson of the ONVAC will facilitate the meeting;
- Formal motions to call the meeting to order, take action or adjourn are unnecessary; and
- Actions will be requested by consensus of both bodies.

123 d. Special meetings were removed [Current Bylaws 3-2].

- 124 e. Standing and Special Committees were changed to Task Forces and Subcommittees
125 [*Proposed Bylaws 3-4*] in accordance with the Boards, Committees and Commissions law
126 [*1 O.C. 105.3-1(p) and (r)*].
127 • The duty of the Chairperson to appoint task force and subcommittee members
128 was removed [*Current Bylaws 3-4*].
129 f. The timeframe to establish a quorum was changed from thirty (30) minutes before a
130 meeting to five (5) minutes before a meeting [*Proposed Bylaws 3-5(a)*].
131 g. The voting requirements have changed. The Chairperson is now allowed to cast a vote
132 [*Proposed Bylaws 3-7(a)*]. E-polls are permissible with the Vice-Chairperson as the
133 designee responsible for conducting e-polls in the absence or discretion of the Chairperson
134 [*Proposed Bylaws 3-7(b)*] and must be conducted in accordance with the Boards,
135 Committees and Commissions law [*1 O.C. 105.10-3(c)(6)(C) and (D) and 105.11*].
136 Telephone voting was eliminated [*Current Bylaws 3-6*].
137

138 D. ARTICLE IV. EXPECTATIONS

139 This section is new to these bylaws based on the requirements established in the Boards, Committees
140 and Commissions law [*1 O.C. 105.10-3(d)*].

- 141 a. Behavioral requirements were added to govern members when acting in an official capacity
142 of the ONVAC [*Proposed Bylaws 4-1*]. This complies with the Boards, Committees and
143 Commissions law [*1 O.C. 105.10-3(d)*].
144 b. Enforcement of behavioral expectations include [*Proposed Bylaws 4-1(e)*]:
145 • Appropriate warnings and/actions as agreed upon by majority vote of the
146 ONVAC;
147 • A recommendation by majority vote of the ONVAC to the OBC to terminate
148 a members' appointment on the ONVAC; and
149 • The ONVAC may discipline a member in accordance with any law of the
150 Nation governing sanctions or penalties for appointed officials.
151 c. The bylaws include a provision that prohibits intentional acts of violence that inflicts,
152 attempts to inflict or threatens to inflict emotional or bodily harm or damage to property
153 while acting in an official capacity as a member of the ONVAC [*Proposed Bylaws 4-2*] in
154 compliance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(d)(2)*].
155 d. Illegal or legal drug (other than prescribed /directed) or alcohol use by an ONVAC member
156 when acting in an official capacity is prohibited [*Proposed Bylaws 4-3*] in compliance with
157 the Boards, Committees and Commissions law [*1 O.C. 105.10-3(d)(3)*].
158 e. The bylaws require that no member of the ONVAC, while engaged in social media
159 activities, shall use his or her status on the ONVAC for personal gain within his or her
160 capacity on the ONVAC [*Proposed Bylaws 4-4(a)*]. The ONVAC members shall also
161 comply with the Nation's Social Media Policy and their oath of office when using social
162 media while acting on behalf or as a representative of the ONVAC [*Proposed Bylaws 4-*
163 *4(b)*] in compliance with the Boards, Committees and Commissions law [*1 O.C. 105.10-*
164 *3(d)(4)*].
165 f. The bylaws require the ONVAC to abide by the Nation's Conflict of Interest law [*2 O.C.*
166 *217*] and the Boards, Committees and Commissions law [*1 O.C. 105.10-3(d)(5) and*
167 *105.15*] which includes disclosure of conflicts of interest annually. Additionally, members
168 on the ballot for an officer position must recuse themselves and may not vote for their own
169 positions [*Proposed Bylaws 4-5(a)*].
170

171 E. ARTICLE V. STIPENDS AND COMPENSATION

- 172 a. This section provides a list of eligible stipends members of the ONVAC are eligible to
173 receive and requirements that must be met to qualify for a stipend in compliance with
174 Resolution BC-05-08-19-B regarding stipends [*Proposed Bylaws 5-1*]:
- 175 • One regular meeting stipend per month;
 - 176 • Stipends for duly called joint meetings with the OBC; and
 - 177 • Conference or training stipends provided that:
 - 178 i. A full day of training is required to receive a training stipend.
 - 179 ii. Attendance was required by bylaws, law or resolution.
 - 180 i. The proposed bylaws state that training can be mandated by
 - 181 the ONVAC Chairperson or a majority of the members in
 - 182 attendance at an ONVAC meeting deemed necessary to
 - 183 maintain knowledge, skills and abilities required to perform
 - 184 duties. Additionally, each of the ONVAC members is only
 - 185 eligible to receive a stipend for up to five (5) full days of
 - 186 training per year [*Proposed Bylaws 1-7(a)*].
 - 187 • A provision was added acknowledging that task forces and subcommittees will
 - 188 only be eligible for a stipend if an exception is made by the OBC or the General
 - 189 Tribal Council [*Proposed Bylaws 5-1(e)*] in accordance with the Boards,
 - 190 Committees and Commissions law [*1 O.C. 105.13-10*].
 - 191 • A provision was added clarifying that travel, per diem and business expense
 - 192 reimbursements in the Boards, Committees and Commissions law or any other
 - 193 law of the Nation are the only compensation available to ONVAC members
 - 194 [*Proposed Bylaws 5-2*]. ONVAC members may travel in the Nation's vehicles
 - 195 when certified and must follow the Vehicle Driver Certification and Fleet
 - 196 Management law [*2 O.C. 210*].
 - 197

198 **F. ARTICLE VI. RECORDS AND REPORTING**

- 199 a. The ONVAC will use the minutes format provided by the BCSO and approved by the
200 ONVAC. The ONVAC will submit minutes to the BCSO within 30 days of their approval
201 by the ONVAC [*Proposed Bylaws 6-2*]. This complies with the Boards, Committees and
202 Commissions law [*1 O.C. 105.10-3(f)*].
- 203 b. The BCSO will maintain all meeting packets including agenda, minutes, and all
204 attachments [*Proposed Bylaws 6-3*] in accordance with the Open Records and Open
205 Meetings law [*1 O.C. 107.6-2*].
- 206 c. Regular communication with the OBC Liaison was added with all three (3) of the ONVAC
207 Officers being made aware of the need to meet with the liaison as needed. The frequency
208 and format of the meetings will be agreed upon by the liaison and the ONVAC Officers
209 [*Proposed Bylaws 6-4*] this complies with the Boards, Committees and Commissions law
210 [*1 O.C. 105.10-3(f)(4)*].
- 211 d. The ONVAC will audio record meetings and the BCSO will maintain the audio recordings;
212 executive session is exempt from audio recording requirements [*Proposed Bylaws 6-5*] in
213 accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(f)*] and
214 the Open Records and Open Meetings law [*1 O.C. 107.7-3*].
- 215

216 **G. ARTICLE VII. AMENDMENTS**

- 217 a. A provision was added requiring that amendments follow the Boards, Committees and
218 Commissions law and any other policy of the Nation [*Proposed Bylaws 7-1*] [*1 O.C.*
219 *105.10-3(g)*].
- 220

221 **SECTION 5. LEGISLATION RELATED TO BOARDS, COMMITTEES AND COMMISSIONS**

222 There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a detailed list of
223 laws that establish requirements related to boards, committees and commissions generally.

224 A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows
225 for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida*
226 *Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between these bylaws and the
227 Oneida Nation Constitution.

228
229 B. Boards, Committees and Commissions [1 O.C. 105]. This law establishes all requirements related
230 to elected and appointed boards, committees and commissions of the Nation; excluding the OBC
231 or standing committees of the OBC and the Nation's corporations. The law governs the procedures
232 regarding the appointment and election of persons to boards, committees and commissions, creation
233 of bylaws, maintenance of official records, compensation, and other items related to boards,
234 committees and commissions. The ONVAC is appointed by the OBC [*Proposed Bylaws 1-*
235 *5(a)(1)*]. The requirements for the ONVAC bylaws are contained in this law as well as a
236 requirement that all existing entities of the Nation comply with the format detailed in the law [*1*
237 *O.C. 105.10*]. These proposed bylaws comply and there are no conflicts with the Boards,
238 Committees and Commissions law.

239
240 C. Travel and Expense Policy [2 O.C. 219]. Members of the ONVAC are eligible to be reimbursed
241 for travel and per diem to attend a conference or training with the ONVAC approval. The BCSO
242 is granted sign-off authority related to travel [*Proposed Bylaws 2-6(b)*] in accordance with this law
243 [*2 O.C. 219.4-2*] and the Boards, Committees and Commissions law [*1 O.C. 105.10-3(b)(6)(B)*].
244 Travel must be approved by majority vote of the ONVAC [*Proposed Bylaws 2-6(c)*]. The proposed
245 bylaws comply and there are no conflicts with the Travel and Expense Policy.

246
247 D. Conflict of Interest [2 O.C. 217]. This law applies to the ONVAC and establishes specific
248 limitations to which information or materials that are confidential or may be used by a competitor
249 of the Nation's enterprises or interests may be used to protect the interests of the Nation. The
250 Boards, Committees and Commissions law establishes that amended bylaws require members to
251 disclose potential or real conflicts annually [*1 O.C. 105.10-3(d)(5) and 105.15*]. The amended the
252 ONVAC bylaws require the ONVAC to follow all laws of the Nation regarding conflicts of interest.
253 In addition, members must recuse themselves from voting if their name appears on the ballot for
254 an Officer position [*Proposed Bylaws 4-5*]. This aligns with the Conflict of Interest law of the
255 Nation which allows for entities to outline further conflicts and prohibited activities resulting from
256 those conflicts of interest [*2 O.C. 217.7-2*]. Penalties for failure to disclose conflicts of interest
257 include termination of appointment in accordance with the Boards, Committees and Commissions
258 law and enforcement of any penalties in accordance with the laws of the Nation [*2 O.C. 217.6-2*
259 *and 6-3*]. The proposed bylaws comply and there are no conflicts between the bylaws and the
260 Conflict of Interest law.

261
262 E. Social Media Policy [2 O.C. 218]. This law applies to the ONVAC and regulates the Nation's
263 social media accounts including how content is managed and who has authority to post on social
264 media on behalf of the Nation. Boards, committees and commissions must register social media
265 accounts with the Nation's Secretary's Office to include specific information related to access to
266 the account, acknowledgment and compliance with the Computer Resources Ordinance and this
267 policy, use a Nation issued email address, and ensure all content complies with all applicable laws
268 of the Nation, state or federal laws. The bylaws identify that the ONVAC must comply with the
269 Social Media Policy in accordance with the Boards, Committees and Commissions law [*1 O.C.*
270 *105.10-3(d)(4)*]. Additionally, the proposed bylaws include a provision that establishes that no
271 ONVAC member will engage in the use of social media for individual gain or purpose while acting

272 within the official capacity of the ONVAC [*Proposed Bylaws 4-4*]. The proposed bylaws comply
273 and there are no conflicts with the Social Media Policy.
274

275 F. Open Records and Open Meetings [1 O.C. 107]. The ONVAC must comply with the Open Records
276 and Open Meetings law. This law details how records must be maintained and made available to
277 the public and details that meetings are open to the public unless specific criteria are met which
278 allow the meetings to be closed [*1 O.C. 107.15 and 107.17*]. Public notice of meetings is also
279 required by this law [*1 O.C. 107.15-1*]. The proposed bylaws state that the ONVAC Officers and
280 personnel from the Oneida Veterans Services Office will work collaboratively to ensure notice of
281 meeting location, agenda, documents and minutes are prepared and packaged for the ONVAC
282 members as well as the public and that meetings shall be open to the public in accordance with this
283 law [*Proposed Bylaws 3-1(a) and (b)*]. The bylaws delegate the maintenance of the records to the
284 BCSO [*Proposed Bylaws 6-2(a)*]. The proposed bylaws comply and there are no conflicts with the
285 Open Records and Open Meetings law.
286

287 G. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities
288 [*2 O.C. 210.3-1(g)*] and individual members are considered officials [*2 O.C. 210.3-1(j)*] under this
289 law and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
290 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle
291 of the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials)
292 to have written consent from the BCC they serve on prior to being approved to use a Tribal vehicle
293 [*2 O.C. 210.6-1(b)(2)*]. Certification includes providing the Human Resources Department with
294 the appropriate license, training certifications, and insurance information [*2 O.C. 210.8-1*].
295 Additionally, BCC members must abide by all reporting requirements in this law [*2 O.C. 210.9-2*].
296 a. BCC members who violate this law may be subject to:
297 i. any laws regarding sanctions or penalties; and
298 ii. termination of appointment following the Boards, Committees and Commissions
299 law [*1 O.C. 105*].
300
301
302
303
304
305

Oneida Nation Veterans Affairs Committee By-Laws



Proud Warrior

**ONEIDA NATION
VETERANS AFFAIRS
COMMITTEE**

MISSION STATEMENT

Our Mission is to provide quality service and assistance in the delivery of entitlement and benefits due to our Oneida Veterans and their families.

We are the principal advocate for Veterans and their families and we accept the responsibility to protect the integrity of the Veterans Community.

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Oneida Nation Veterans Affairs

Committee By-Laws

Article I. Authority

- 1-1. *Name.* The name of this committee shall be the Oneida Nation Veterans Affairs Committee and may be referred to as the Veterans Affairs Committee or abbreviated "ONVAC."
- 1-2. *Authority.* This entity was created by the Oneida Business Committee by motion on January 12, 1994 and by adoption of these By-laws on October 29, 1997, which were amended on February 13, 2013.
- 1-3. *Purpose.* It is the purpose of the Veterans Affairs Committee to serve as an advisory body to the Oneida Veterans Service Office in all matters related to Oneida Tribe veteran's rights and benefits and veterans affairs issues, and to protect the honor and integrity of the Oneida Tribe and all veterans who served honorably in the United States Armed Forces. It shall be the purpose of the Veterans Affairs Committee to provide advice and constructive input to the Veterans Service Office Director on all veterans' affairs issues in order that the office can formulate veteran services and programs for the Oneida Veterans. ONVAC coordinates veteran events with the assistance of the Veterans Service Office and other organized groups that are representatives of Oneida Veterans and the Oneida Tribe.
- 1-4. *Office.* The official mailing address of this entity shall be:
- Oneida Nation Veterans Affairs Committee
P.O. Box 365
Oneida, Wisconsin 54155
- 1-5. *Membership.*
- A) *Qualifications.* The Veterans Affairs Committee shall be made up of members of the Oneida Tribe of Indians of Wisconsin who have served honorably on active duty in the United States Armed Forces. Qualifications shall also include the following:
- a) *Honorable Service.*
- i) A person who, served on active duty in one of the military branches of the United States Armed Forces and received an honorable discharge from active duty service.
- ii) Active duty is having served one hundred eighty-one (181) days or more of continuous active duty unless discharged early, with less than one hundred eighty-one (181) days active duty, because of a service connected disability.

- iii) Served as a member of the Selected Reserve and completed at least six (6) years in the Reserves or National Guard, or was discharged early because of a service connected disability.
- b) Shall be a citizen in good standing in the Oneida Community.
- B) *Number of members.* The Veterans Affairs Committee shall consist of nine (9) members.
- C) *How appointed.* Members of the Veterans Affairs Committee shall be appointed by the Oneida Business Committee for a period of three (3) years. Terms shall be staggered. The Tribal Secretary's Office shall forward copies of all applications under consideration to the Veterans Affairs Committee. ONVAC shall return all applications and submit the name of a candidate whom they recommend to the Tribal Chairperson, within thirty (30) days after receiving the applications from the Tribal Secretary's Office.
- D) *How vacancies are filled.* In case of a vacancy(ies) due to death, termination of appointment or resignation, the vacancy shall be filled by the Oneida Business Committee.
- E) *Unexcused absences, resignation.* Three (3) un-excused absences of a member may result in the member's appointment to the Veterans Affairs Committee being terminated in accordance with the Comprehensive Policy Governing Boards, Committee and Commissions. An excused absence shall be determined by the Veterans Affairs Committee on the basis of the effect the member's absence has had on the purpose and policy of the Veterans Affairs Committee. Resignations shall be submitted in writing to the Veterans Affairs Committee.
- F) No member shall act independent of the Veterans Affairs Committee.

Article II. Officers and Administrative Support

2-1. *Officers.* On an annual basis, ONVAC shall elect from among themselves a Chairperson, Vice-Chairperson and Secretary.

A) *Duties of Officers.*

- a) *Chairperson.*
 - i) Shall preside over all meetings of the Committee
 - ii) Shall have sign off authority for \$3,000 / \$1,000 budgeted/unbudgeted.
- b) *Vice-Chairperson*
 - i) Shall preside over all meetings in the absence of the Chairperson.
 - ii) Shall have sign off authority for \$3,000 / \$1,000 budgeted/unbudgeted if the Chairperson is absent.
- c) *Secretary*
 - i) Shall assist with preparing the agenda in accordance with 2-2.
 - ii) Shall prepare meeting minutes in accordance with 2-2.

2-2. The Chairperson and/or Secretary, in collaboration with the personnel from the Veterans Services Office, shall prepare agendas and minutes, submit any necessary paperwork to ensure stipends are paid, and perform other similar administrative functions.

Article III. Meetings

- 3-1. *Regular Meetings.* The regular meeting of the Veterans Affairs Committee shall be held every second Tuesday of each month at 5:00 p.m. The Chairperson and the personnel from the Veterans Services Office shall work collaboratively to ensure notice of meeting location, agenda, and materials are forwarded to the ONVAC members. Meetings shall be run in accordance with Robert's Rules of Order and shall be public meetings in accordance with the Open Records and Open Meetings law. The physical meeting place shall be determined by ONVAC and may change from time to time as determined by ONVAC but shall be within the Reservation boundaries unless the membership is given proper notice.
- 3-2. *Standing and Special Committees Meetings.* Standing and special committees shall be created by appointment of the Chairperson and shall meet as often as necessary. The Chairperson shall be an ex officio member of all standing and special committees. Standing and special committees shall serve until the duties it has been assigned are discharged, or a final report is given.
- 3-3. *Emergency or Special Meetings.* Emergency or special meetings may be called by the Chairperson with at least twenty-four (24) hour notice to all members of the Veterans Affairs Committee.
- 3-4. *Quorum.* A quorum shall consist of five (5) members which shall include the Chairperson or Vice-Chairperson and shall be established within thirty (30) minutes of the identified meeting time. Failure to establish a quorum shall result in rescheduling of the meeting.
- 3-5. *Order of Business.* The order of business shall be:
- A) Call to Order / Opening Ceremony
 - B) Approval of Agenda
 - C) Approval of Minutes
 - D) Standing and Special Committee Reports
 - E) Old Business/Tabled Business
 - F) New Business
 - G) Public Comment (5 minute limit per speaker)
 - H) Executive Session
 - I) Adjournment
- 3-6. *Voting.* Each member shall have one (1) vote, provided that the Chairperson shall vote only in case of a tie. Telephone voting may be allowed if all members of ONVAC are contacted, a majority of the entire membership approves the request and the action is ratified at the next regular ONVAC meeting.

Article IV. Reporting

- 4-1. *Format.* Agenda and minutes shall be compiled based upon the Order of Business identified in Article III, section 3-5. All decisions, any motions and/or amendments along with the vote and any other pertinent information that will lend to the record of the

meeting are to be recorded. The Chairperson and/or Secretary shall work with the personnel from the Veterans Services Office to ensure this information is submitted as required.

- 4-2. *Reporting.* Reports shall be provided to the Oneida Business Committee on the schedule and format identified by the Board Liaison or the Tribal Secretary's Office.
- 4-3. *Travel and Reimbursement.*
- A) All individuals and organized groups who request funding from the Veterans Affairs Committee shall provide an itinerary to the Veterans Affairs Committee which includes estimated costs, dates of travel, and purpose of travel. Upon return, a report shall be submitted to the Veterans Affairs Committee regarding activities and expenses (to include receipts) in accordance with the Oneida Travel and Expense Policy. Travel sponsorship under this Article is limited to activities related to veterans that are endorsed by the Veterans Affairs Committee.
- B) Veterans Affairs Committee members may be reimbursed for normal business expenses, including mileage, for performing duties as directed by the Oneida Veterans Affairs Committee, if they meet the Tribe's requirements for reimbursement.

Article V. Amendments to By-Laws

- 5-1. The Veterans Affairs Committee, upon written notice at any of its regular meetings, may by a majority vote adopt, amend or repeal these By-laws, provided that the proposed adoption, amendment or repeal has been submitted in writing at the previous regular meeting. All such adoptions, amendments and repeals approved shall be implemented upon the subsequent approval of the Oneida Business Committee.
- 5-2. The By-laws shall be reviewed on an annual basis.

Article VI. Stipends

- 6-1. Members of the Veterans Affairs Committee shall be paid a meeting stipend in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions, provided that the meeting has established a quorum for a minimum of one (1) hour and the member collecting the stipend was present for at least one (1) hour of the established quorum.


Article VII. Other Duties and Responsibilities

- 7-1. *Color Guard.* The Veterans Affairs Committee is the official color guard of the Oneida Tribe of Indians of Wisconsin. The Veterans Affairs Committee may appoint other endorsed or approved veterans or veteran group(s) in order to fulfill any Oneida Tribe Color Guard requests.
- A) *Designate Representatives.* The Veterans Affairs Committee and the Oneida Veterans Service Office shall verify the authenticity of groups or individuals who wish to represent Oneida Tribe Veterans.
- 7-2. *Financial Requests.* The Veterans Affairs Committee shall be the screening body for individual veterans or veteran groups who are requesting funds from the Oneida Tribe for

various reasons such as: to provide a color guard while representing the Oneida Tribe Veterans at special events; to alleviate a financial hardship; to provide a veteran(s) service or event (such as the Veterans Pow-Wow, seminar, training, etc.); to attend a veteran(s) related project, event, training, seminar, etc. (i.e. military reunion).

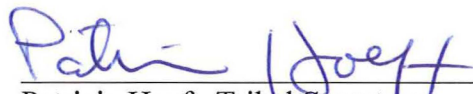
CERTIFICATION

These By-laws, as amended and revised, are hereby attested to as adopted by the Oneida Nation Veterans Affairs Committee at a duly called meeting held on the 8th day of January, 2013 by the Chairperson of the Oneida Nation Veterans Affairs Committee's signature.



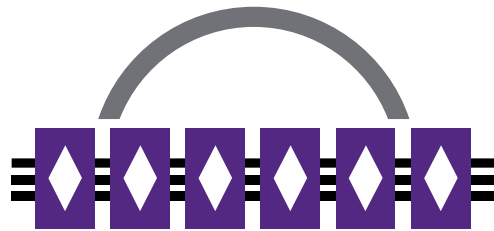
Ms. Loretta V. Metoxen, Chairperson
Oneida Nation Veterans Affairs Committee

And approved by the Oneida Business Committee at a duly called meeting held on the 13th day of February 2013, by the Secretary of the Oneida Business Committee's signature.



Patricia Hoeft, Tribal Secretary
Oneida Business Committee

Oneida Nation Veterans Affairs Committee By-Laws



ONEIDA

ONVAC

[For anything not covered by these by-laws, please refer to the Oneida Nation Article I. Authority](#)

[Title 1-4-. Government and Finances – Chapter 105
BOARDS, COMMITTEES AND COMMISSIONS](#)

ONEIDA NATION
VETERANS AFFAIRS
COMMITTEE

MISSION STATEMENT

Our Mission is to provide quality support service and assistance to our Oneida Veterans and their families.

We are the principal advocates for Veterans and their families and we accept the responsibility to protect the integrity of the Veterans Community.

We advocate for the Veterans and their families within the Oneida Community by representing their needs and causes as they relate to our Veterans individually and as veterans organizations.

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ONEIDA NATION VETERANS AFFAIRS COMMITTEE
BYLAWS

Article I. Authority

1-1. *Name.*—_____ The name of this ~~committee~~ entity shall be the Oneida Nation Veterans Affairs _____ Committee and may be referred to as the Veterans Affairs Committee or _____ abbreviated “ONVAC-”.

1-2. ~~1-2. Authority. This entity is~~ Establishment. ONVAC was created by the Oneida Business Committee by motion on _____ January 12, 1994 and ~~by further~~ established through the adoption of these ~~by laws~~ bylaws on ~~10-October 29-97, 1997,~~ which were amended on February 13, 2013 _____ and from time-to-time hereinafter.

1-3. *Office.* ~~The official mailing address of this entity shall be:~~

1-3. *Authority.*

(a) *Purpose.* The purpose of the Veterans Affairs Committee is to serve as an advisory body to the Oneida Veterans Service Office (“Office”) in all matters relating to Oneida Nation Veterans’ rights and benefits and veterans’ affairs issues, and to protect the honor and integrity of the Oneida Nation and all veterans who served honorably in the United States Uniformed Services. Among other services, the Veterans Affairs Committee is to provide advice and constructive input to the Oneida Veterans Service Office Director on all veterans’ affairs issues so that the Office can formulate veterans’ services and programs; and to coordinate veterans’ events with the Office and veterans’ organizations that are representatives of Oneida Veterans and the Oneida Nation.

(b) *Powers and Duties.* The powers of the Veterans Affairs Committee are advisory, with duties that include, but are not limited to, the following:
(1) Supporting the Oneida Veterans Service Office and the Oneida Nation.

Draft (Redline to Current)

- (2) Being responsible to the Oneida Business Committee, all Oneida Nation Veterans and their families, and the Oneida Community.
- (3) Supporting the Office in the provision and coordination of all veterans services to the Oneida Community and as requested by local, state, federal, other tribal activities and/or events and veterans associations, such as the Color/Honor Guard, funerals, parades, school visits and presentations.
- (4) *Color Guard.* The ONVAC is the official Color Guard of the Oneida Nation. The ONVAC may appoint other endorsed or approved veterans or veteran groups in order to fulfill any Oneida Nation requests. This duty may be delegated to the Oneida Veterans Service Officer who also has direct contact with Oneida Veterans and the active veterans' organization.
- (A) *Designate Representatives.* The ONVAC and the Oneida Veterans Service Office Director shall verify the authenticity of groups or individuals who wish to represent Oneida Nation Veterans.
- (5) *Financial Requests.* The ONVAC shall be the screening body for individual veterans or veteran groups who are requesting funds from the Oneida Nation for various reasons such as: (1) to alleviate a financial hardship; (2) to provide a veterans service or event, such as the Veterans Pow-Wow, a seminar, training or a conference; and (3) to attend a veterans related project, event, training, seminar, and/or some other activity, such as a military reunion.
- (6) Responding to and acting upon any other delegated authority established through the laws, policies, rules and resolutions of the Oneida Nation.

1-4. *Office.* The official mailing address of the Veterans Affairs Committee shall be:
Oneida Nation Veterans Affairs Committee
ATTN: Veterans Service Office
~~Oneida Nation Veterans Affairs Committee~~
P.O. Box 365
Oneida, Wisconsin 54155
The physical

1-5. Membership.

- (a) *Number of Members.* The ONVAC shall consist of nine (9) appointed members.
- (1) Each member shall hold office until his or her term expires, until his or her resignation, or until his or her appointment is terminated in accordance with the Boards, Committees and Commissions law.
- (A) *Term Expiration.* Although a member's term has expired, he or she shall remain in office until a successor has been sworn in by the Oneida Business Committee.

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(B) *Resignation.* A member may resign at any time verbally at a meeting place ~~shall be or~~ by delivering written notice to the

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Business Committee Support Office and the ONVAC

Chairperson or Chairperson's designee. The resignation is deemed effective upon acceptance by motion of a member's verbal resignation or upon delivery of the written notices.

(b) *Appointment.* ONVAC members shall be appointed in accordance with the Boards, Committees and Commissions law for terms of three (3) years.

(1) Terms shall be staggered with appointments to be started on the first day of the year (1/1) and ending on the last day of the year (12/31).

(c) *Vacancies.* Vacancies shall be filled in accordance with the Boards, Committees and Commissions law.

(1) The ONVAC Chairperson shall review application materials and provide the Oneida Business Committee with recommendations on applicants for appointment by the executive session in which appointments are intended to be made.

(d) *Qualifications of Members.* ONVAC members shall meet the following qualifications:

(1) Be an enrolled member of the Oneida Nation.

(2) Be a resident of Brown or Outagamie County, Wisconsin.

(3) Have served on and Honorably Discharged (Form DD-214 Required) from Active Duty in the United States Uniformed Services (Army, Navy, Air Force, Marines, Coast Guard, Public Health Service or National Oceanic and Atmospheric Administration).

(A) Active Duty is defined as having served one hundred and eighty-one (181) days or more of continuous active duty unless discharged early, with less than one hundred and eighty-one (181) days of active duty, because of a service-connected disability.

(4) Have served as a member of the Selected Reserve and completed at least six (6) years in the Reserves or the National Guard or was discharged early because of a service-connected disability.

(5) Be a citizen in good standing in the Oneida Community.

1-6. *Termination.* An ONVAC member's appointment may be terminated by the Oneida Business Committee in accordance with the Boards, Committees and Commissions law.

(a) The Veterans Affairs Committee may make recommendations to the Oneida Business Committee for the termination of a member's appointment based on the following:

(1) A failure to comply with these bylaws or with any other law and/or policy of the Nation;

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- (2) Three (3) un-excused absences from an ONVAC meeting within a period of one (1) year.
- (A) An un-excused absence shall be defined as a failure by a member to notify a Board Officer, in writing, of his or her pending absence no less than thirty (30) minutes before the scheduled meeting.
- (b) Recommendations to the Oneida Business Committee for termination of an ONVAC member's appointment must be ~~determined at the first meeting of this entity~~ by a majority vote of the members in attendance at an ONVAC meeting of an established quorum.

1-7. *Training and Conferences.* ONVAC members shall attend and participate in various trainings and/or conferences that the ONVAC Chairperson or a majority of the members in attendance at an ONVAC meeting of an established quorum deem necessary for members to responsibly serve ONVAC and/or maintain the knowledge, skills and abilities required of them to perform the on-going activities relating thereto.

- (a) Regardless of the number of trainings/conferences that he or she is required to attend, no ONVAC member shall be eligible to receive stipends for attending more than five (5) full days of mandatory trainings/conferences per year.

Article II. Officers and Administrative Support

2-1. *Officers.* The Officer positions of the Veterans Affairs Committee shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson are as follows:

- (a) Shall call and preside over all meetings of the Veterans Affairs Committee and appoint members to any task forces or subcommittees of the ONVAC in accordance with section 3-4 of these bylaws.
- (b) Shall have financial sign-off authority as set forth in section 2-6 of these bylaws.
- (c) Shall submit, or through a designee submit, annual and semi-annual reports to the Oneida General Tribal Council, as well as quarterly reports to the Oneida Business Committee, in accordance with the Boards, Committees and Commissions law.
- (d) Shall represent and/or request another Officer to represent the ONVAC at all regularly scheduled/unscheduled reporting requirements to the Oneida Business Committee and other business units of the Nation as may be requested, including, but not limited to, the Oneida Business Committee meeting in which the ONVAC's quarterly report appears on the agenda.
- (e) In collaboration with the Vice-Chairperson, Secretary and personnel from the Oneida Veterans Services Office, shall prepare agendas and handouts.

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submit any necessary paperwork to ensure stipends are paid, and perform other similar administrative functions, all in accordance with these bylaws, the Boards, Committees and Commissions law, and the Open Records and Open Meetings law.

2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the Vice-Chairperson are as follows:

- (a) Shall preside over all meetings of the Veterans Affairs Committee in the absence of the Chairperson and may call emergency meetings.
- (b) Shall have financial sign-off authority as set forth in section 2-6 of these bylaws.
- (c) In lieu of the Chairperson, shall represent and/or request another Officer to represent the ONVAC at all regularly scheduled/unscheduled reporting requirements to the Oneida Business Committee and other business units of the Nation as may be requested, including, but not limited to, the Oneida Business Committee meeting in which the ONVAC's quarterly report appears on the agenda.
- (d) In collaboration with the Chairperson, Secretary and personnel from the Oneida Veterans Services Office, shall prepare agendas and handouts, submit any necessary paperwork to ensure stipends are paid, and perform other similar administrative functions, all in accordance with these bylaws, the Boards, Committees and Commissions law and the Open Records and Open Meetings law.

2-4. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the Secretary are as follows:

- (a) In the event that both the [KMH1] Chairperson and the Vice-Chairperson positions become vacant before the end of their terms, shall be allowed to call meetings of the ONVAC to fill the vacancies and to preside over those meetings for the sole purpose of conducting an election of new Officers, at which point the Chairperson, or Vice-Chairperson in the absences of the Chairperson, shall preside.
- (b) Shall have financial sign-off authority as set forth in section 2-6 of these bylaws.
- (c) In lieu of both the Chairperson and Vice-Chairperson, shall represent the ONVAC at all regularly scheduled/unscheduled reporting requirements to the Oneida Business Committee and other business units of the Nation as may be requested, including, but not limited to, the Oneida Business Committee meeting in which the ONVAC's quarterly report appears on the agenda.
- (d) [KMH2] Shall provide notice of meeting locations, agendas and minutes; prepare meeting minutes, correspondence, written reports, including the annual, semi-annual and quarterly reports required by the Boards, Committees and

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Commissions law; and perform other duties on behalf of the

Veterans Affairs Committee as scheduled and/or required by a majority vote of the members at an ONVAC meeting of an established quorum, all in accordance with these bylaws, the Boards, Committees and Commissions law, and the Open Records and Open Meetings law.

(e) In collaboration with the Chairperson, Vice-Chairperson and personnel from the Oneida Veterans Services Office, shall prepare agendas and handouts, submit any necessary paperwork to ensure stipends are paid, and perform other similar administrative functions, all in accordance with these bylaws, the Boards, Committees and Commissions law, and the Open Records and Open Meetings law.

2-5]KMH3]. *Selection of Officers.* Officers of the Veterans Affairs Committee shall be elected on an annual basis by a majority vote of the members in attendance at an ONVAC meeting of an established quorum for terms of one (1) year.

(a)KMH4] The election of Officers shall take place within thirty (30) days after the newly appointed ONVAC members are present at their first scheduled regular meeting of an established quorum.

(b)KMH5] ONVAC members may be dismissed from their Officer position by majority vote of the members in attendance at an ONVAC meeting of an established quorum.

(c) Vacant Officer positions shall be filled by majority vote of the members in attendance at an ONVAC meeting of an established quorum.

(d) Members of the ONVAC shall not hold more than one (1) Officer position per Officer term.

2-6]KMH6] *Budgetary Sign-Off Authority and Travel.* ONVAC shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.

(a) Levels of budgetary sign-off authority for the ONVAC shall be as set forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures*, for Area Directors/Enterprise Directors.

(1) All ONVAC Officers shall have sign-off authority.

(2) Two (2) of the ONVAC Officers are required to sign-off on all budgetary requests.

(b)KMH7] The Oneida Business Committee Support Office shall have sign-off authority over requests for stipends, travel per diem and business expense reimbursements.

(c) ONVAC shall approve a member's request to travel on behalf of ONVAC by a majority vote of the members in attendance at a regular or emergency ONVAC meeting of an established quorum.

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~~2-7~~^[KMH8]. *Personnel.* The Veterans Affairs Committee shall not have authority to hire personnel for its benefit.

(a) ONVAC may receive administrative support from staff within the Oneida Business Committee Support Office and the Oneida Veterans Service Office that is consistent with the Boards, Committees and Commissions law for items such as preparing meeting agendas, documents and minutes; providing notice of meetings, meeting agendas, documents and minutes; recording meetings and meeting minutes; maintaining meeting agendas, documents and minutes; and submitting any necessary paperwork to facilitate stipend payments.

Article III. Meetings

3-1. ~~Regular Meetings~~^[KMH9]. The regular meetings of the Veterans Affairs Committee shall be held every second Tuesday of each month, commencing at 5:00 p.m., in the Veterans Department located at 134 Riverdale Drive in Oneida, Wisconsin.

(a) The meeting date, time and/or place shall be reviewed by the ONVAC and may change from time to time as determined by the entity but shall be within the reservation-to-time by majority vote of the members in attendance at an ONVAC meeting of an established quorum so long as notice is provided to all members in writing and, along with the public, in accordance with governing law, including, but not limited to, the Open Records and Open Meetings law, prior to the implementation of a new date, time and/or location.

(1) Meeting locations shall be within the Reservation boundaries unless ~~noticed to the membership~~ notice is provided to all members in writing and, along with the public, consistent with governing law, prior to designating the meeting location.

~~1-4. Membership.~~

~~a. Qualifications.~~ The Veterans Affairs Committee will be made up of members of the Oneida Tribe of Indians of Wisconsin who have served honorably on active duty in the Armed Forces of the United States of America. ~~Qualifications shall also include the following—~~

~~1. Honorable Service.~~

~~A. A person who has been inducted into, or voluntarily entered, active duty in one of the service branches of the Armed Forces of the United States of America and who did not receive a discharge from active duty with that branch of the Armed Forces of the United States of America due to “less than honorable conditions.”~~

~~B. Active duty is having served 181 days or more of continuous active duty unless discharged early, with less than 181 days active duty, for a service-connected disability.~~

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~~C. Served as a member of the Selected Reserve and who has completed at least six years in the Reserves or National Guard, or who was discharged early because of a service connected disability.~~

~~2. Shall be a citizen in good standing in the Oneida Community.~~

~~b. Number of members. The Veterans Affairs Committee shall consist of nine members.~~

~~(b) e. How elected or appointed. Members of the Veterans Affairs Committee shall be appointed by _____ The ONVAC Officers and personnel from the Oneida Veterans Services _____ Office shall work collaboratively to ensure all members, as well as the _____ public, are provided notice of meeting location, agenda, documents and minutes pursuant to the Open Records and Open Meetings law and _____ that the meeting agenda, documents and minutes are prepared and packaged for the ONVAC members consistent with the Boards, Committees and Commissions law.~~

~~(c) _____ Meetings shall be run in accordance with Robert's Rules of Order and shall be open to the public per the Open Records and Open Meetings law.~~

3-2. *Emergency [KMH10] Meetings.* An emergency meeting may be called for the purpose of addressing an emergent need relative to the work of the ONVAC that requires a determination/decision unable to await until the monthly scheduled meeting of the ONVAC.

(a) Within seventy-two (72) hours after an emergency meeting, the ONVAC shall provide the Nation's Secretary with notice [KMH11] of the emergency meeting, the reason for the emergency meeting, and an explanation as to why the matter could not wait until the next regular scheduled meeting.

(b) Subject to section 2-4(a) of these bylaws, emergency meetings may be called by any ONVAC Officer upon at least twenty-four (24) hour advance notice to all members [KMH12] of the Veterans Affairs Committee.

(1) [KMH13] Notice of an emergency meeting shall be provided to all ONVAC members via telephone call, as well as by e-mail communication sent, with a RSVP request, to the official Oneida Nation e-mail address provided to each member to conduct ONVAC business electronically, and along with the public, shall further be provided in accordance with the Open Records and Open Meetings law.

(2) A quorum must be present at the emergency meeting in order to take any action.

(c) Minutes of emergency meetings shall be taken, recorded electronically, and approved for the record at the next scheduled monthly ONVAC meeting.

[KMH14]

3-3. *Joint Meetings.* Joint Meetings may be held in the Oneida Business Committee for a period of three years. Terms shall be staggered.

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~~d. How vacancies are filled. In case of vacancy(ies) due to death, removal or resignation, the vacancy shall be filled by _____ Conference Room of the Norbert Hill Center as frequently as agreed upon _____ between the Oneida Business Committee and _____ the ONVAC.~~

~~e. Un-excused absences, resignation. Three un-excused absences of a members shall result in removal from the Veterans Affairs Committee in accordance with the Removal Law. An excused absence shall be determined by the Veterans Affairs Committee on the basis of the effect the member's absence has had on the purpose and policy of the Veterans Affairs Committee. Resignations shall be submitted in writing to the Veterans Affairs Committee and are effective upon submission.~~

Article II. Officers

~~2-1. Officers. This entity shall have four officers — Chairperson, Vice Chairperson, Secretary and Treasurer.~~

~~2-2. Chair duties. The Chairperson shall preside over all regular and special meetings, and appoint committees.~~

~~2-3. Vice Chair duties. The Vice Chairperson shall preside at all meetings in the absence of the Chairperson.~~

~~2-4. Secretary duties. The Secretary shall keep accurate minutes of all meetings, both regular and special. Assure that minutes are reported in the proper format. Read and answer all mail abiding by/to the decisions of the Veterans Affairs Committee.~~

~~2-5. Treasurer duties. The Treasurer shall report at each monthly meeting on the financial status of the Veterans Affairs Committee funds. This position may be combined with the Secretary with the majority approval of the Veterans Affairs Committee.~~

~~2-5. How chosen and length of term. The officers shall serve terms of one year and shall be elected by a majority vote at the annual meeting which shall be held in October of each year. Terms of office run from the beginning of November. No officer shall serve for more than three consecutive terms. In the event of a vacancy, the successor shall be appointed by the Veterans Affairs Committee for the duration of the unexpired term.~~

~~2-6. Personnel. The Veterans Affairs Committee does not have the authority to hire personnel for the benefit of the entity.~~

~~2-8. Standing and Special Committees. Standing and special committees shall be _____~~

~~(a) [KM15] Notice of the joint meeting agenda, documents and minutes shall be provided, and the joint meeting conducted, in accordance with resolution BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact, as may be amended from time-to-time hereafter.~~

[KM16]

~~3-4. [KM17] Task Forces and Subcommittees. Task forces and subcommittees of the ONVAC may be created and dissolved when necessary— so long as in accordance with the Boards, Committees and Commissions law.~~

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- ~~(c. Reading and action on)~~ Approval of Minutes
- ~~(d. Offer)~~ Task Force and Subcommittee Reports
- e. ~~Standing and Special Committee or Reports by~~ Invited Guests
- f. ~~_____~~ (e) Old Business
- g. ~~New/Tabled~~ Business
- ~~(f) New Business~~
- ~~(g) Veteran Service Officer Report (FYI)~~
- ~~(h.) Public Comment (5-minute limit per speaker per subject)~~
- ~~(i) Executive Session~~
- ~~(j) Other Additional Agenda Items and/or Reports by Individual ONVAC Members~~
- ~~(k) Adjournment~~

~~3-5-7.]~~^[KMH19] *Voting.* ~~Voting shall be in accordance with Robert's Rules Decisions of Order or as otherwise identified in these the ONVAC shall be by laws. Each member shall have one majority vote, provided that of the members in attendance at an ONVAC meeting of an established quorum. .~~

~~(a) Each of the nine (9) ONVAC members, including the Chairperson shall, shall be entitled to one (1) vote only in case of a tie. Telephone voting may be allowed on issues determined by voice on each matter submitted to a vote only of the ONVAC.~~

~~(b) E-polls are permissible so long as conducted in accordance with the Boards, Committees and Commissions law.~~

~~(1)~~^[KMH21] The Vice-Chairperson shall serve as the Chairperson's designee for ~~_____~~^[KMH20] the responsibility of conducting an e-poll in the absence or discretion of the Chairperson.

~~_____~~^[KMH22]

Article IV. Expectations^[KMH23]

4-1. Behavior of Members.

~~(a) Members of the ONVAC shall present and conduct themselves in a professional manner when acting in their official capacity as _____ members of the ONVAC by, among other actions, speaking in a respectful and courteous manner to ONVAC members, as well as non-members, and dressing in appropriate attire when attending meetings and/or other ONVAC events.~~

~~(b) No member shall act independently of the ONVAC, on behalf of the ONVAC, or express and/or represent views of the ONVAC without its specific approval as established by a majority vote of the members present at an ONVAC meeting of an established quorum.~~

~~(c) Members shall prepare for and attend all meetings of the ONVAC unless excused in accordance with these bylaws.~~

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(d) Members shall comply with these bylaws and all other laws and/or policies of the Nation^[KMH24]

(e) *Enforcement.* Any action by a member contrary to the above shall be discussed at the next ONVAC regularly scheduled monthly meeting or emergency meeting and appropriate warnings and/or actions may be taken by the ONVAC as agreed upon by a majority vote of the ONVAC members in attendance at the monthly or emergency meeting of an established quorum, including, but not limited to:

(1) That the ONVAC may make a recommendation to the Oneida Business Committee for termination of the member's appointment in accordance with the Boards, Committees and Commissions law or any other law of the Nation governing the termination of appointed officials.

(2)^[KMH25] That the ONVAC may discipline the member in accordance with any law of the Nation governing sanctions and penalties for appointed officials.

4-2.^[KMH26] *Prohibition of Violence.* ONVAC members are prohibited from participating in or committing any intentional acts of violence that inflict, attempt to inflict, or threaten to inflict emotional or bodily harm on another person or damage to property. No intentional act of violence will be tolerated and/or accepted by any member of the ONVAC while acting in an official capacity as a member of the ONVAC..

4-3. *Drug and Alcohol Use.* ONVAC members shall not use any alcohol, illegal drugs or legal drugs, other than as prescribed/directed, while acting in their official capacity as members of the ONVAC.

4-4.^[KMH27] *Social Media.* Expectations for use of social media is for official business of the ONVAC.

(a) While engaged in social media activities, no member shall use his or her status on the ONVAC for individual gain or purpose.

(b) Members of the ONVAC shall comply with the Oneida Nation's Social Media Policy and their oath of office when using social media while acting on behalf of or as a representative of the ONVAC.

4-5. *Conflict of Interest.* ONVAC members shall comply with all laws and policies of the Nation governing conflicts of interest.

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(a)^[KM28] Members on the ballot for an Officer position with the ONVAC shall recuse themselves from voting on the position for which they are running to fill.

Article V. Stipends and Compensation

5-1. *Stipends.* ONVAC members shall be eligible for the following stipends as set forth in and subject to these bylaws, the Boards, Committees and Commissions law, and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards, Committees and Commissions Law Stipends, as may be further amended from time-to time-hereafter:

(a) One (1) meeting stipend per month, provided that:

(1) A quorum was established;

(2) The meeting of the established quorum lasted for at least one (1) hour; and

(3) The member collecting the stipend was physically present for the entire meeting.

(b) A stipend for attending a duly called joint meeting between the ONVAC and the Oneida Business Committee, provided that:

(1) A quorum was established by the ONVAC;

(2) The joint meeting lasted for at least one (1) hour; and

(3) The ONVAC member collecting the stipend was physically present for the entire joint meeting.

(c) For attending a conference or training, provided that:

(1) The member attended a full day of training or was present at the conference for a full day; and

(2) The member's attendance at the training or conference was required by law, bylaws or resolution.

(d) A stipend for attending a Judiciary hearing if the member's attendance at the Judiciary hearing was required by official subpoena.

(e) Task force and subcommittee members shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

5-2. *Compensation.* Besides travel, per diem and business expense reimbursements authorized by the Boards, Committees and Commissions law, ONVAC members shall not be eligible for any other form of compensation for duties/activities they perform on behalf of the ONVAC.

^[KM29]

Article VI. Records and Reporting

46-1. *Format.* ~~Agenda Items.~~ Agenda items shall be consistently maintained in ~~an~~ the format identified ~~format-in~~ Article III, section 3-6 of these bylaws as the Order of Business.

4^[KM30]

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() [KMH31]

~~6-2. *Minutes.*~~ Minutes. Meeting minutes of the ONVAC [KMH32] shall be typed and in a consistent _____ format ~~designed~~provided by the Oneida Business Committee Support Office to _____ generate the most informative record of ~~the~~all meetings of the ~~Veterans Affairs Committee.~~ ONVAC. _____

. [KMH33]

4 _____ (a) [KMH34] The minutes shall provide a summary of the action(s) taken by the _____ ONVAC during the meeting _____ that includes the decision, any motions and/or _____ amendments, the vote and any other pertinent information that would lend _____ to the record.

(b) [KMH35]

Minutes shall be submitted to _____ the Oneida Business Committee Support Office within thirty (30) days of their approval by the ONVAC. _____

~~6-3. *Attachments.*~~ Handouts All meeting handouts, reports, ~~memoranda,~~memorandum and the like ~~may~~shall be attached to the minutes and agenda, ~~or may be kept separately,~~ provided that all materials can be identified to the meeting in which they were presented to be maintained _____ as a packet upon submission to the Oneida Business Committee Support Office.

~~4-4. *Reporting.*~~ The Chairperson will report to the

~~6-4. *Oneida Business Committee member who is designated liaison.*~~ This reporting format may be as the liaison and Veterans Affairs Committee agree to, but not less than that required in any Liaison. All three (3) Officers of the ONVAC shall be _____ made aware of the need to meet with the Oneida Business Committee _____ member who is ONVAC's designated liaison and any and/or all of the _____

Officers may meet with the liaison on an _____ as-needed basis, the frequency and format of which may be as agreed upon _____ between the liaison and the Officers so long as no less than _____ as required by law or policy on reporting developed by the _____ Oneida Business Committee or Oneida General Tribal Council. ~~Reports shall be made within~~

_____ (a reasonable time after a meeting is held, or as the Oneida Business Committee member liaison and the Veterans Affairs Committee agree. ~~Provided that, the agreement is)~~

The purpose of the liaison relationship is to uphold _____ the ability of the liaison to act as a support to the ~~Veterans Affairs Committee~~ _____ ONVAC.

~~4-5. *Travel and reimbursement.*~~ All individuals and organized groups who request funding by the ~~Veterans Affairs Committee~~ must provide an itinerary to the ~~Veterans Affairs Committee~~ which includes estimated costs, dates of travel, and purpose of travel. Upon return, reports must be forwarded to the ~~Veterans Affairs Committee~~ regarding activities and expenses including receipts. ~~Travel sponsorship under this Article is limited to activities relating to veterans and which are endorsed by the Veterans Affairs Committee. Travel reports must be submitted within ten days of return from a trip and must contain justification for the expenses incurred in terms of~~

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~~what benefit was gained for the Oneida Nation and/or Oneida veterans. Failure to submit reports may result in reimbursement to the Oneida Nation through appropriate actions.~~

~~Article V. Amendments~~

~~5-1. Amendments to By laws. Amendments shall be made to these by laws at a regular meeting of the Veterans Affairs Committee provided that written notice of proposed amendments was made at a prior regular meeting. Amendments are effective upon adoption by a majority vote of the Veterans Affairs Committee and approval by the Oneida Business Committee.~~

~~5-2. Review of By Laws. At the first regular meeting following an election of Veterans Affairs Committee officers, a review of the by laws shall be conducted to determine that they are current. Orientation regarding the Veterans Affairs Committee will occur the first meeting after an appointment for all new members to be conducted by an officer.~~

1
2 **Article VI. Purpose and Policy**

3 ~~6-1. Purpose. It is the purpose of the Veterans Affairs Committee to serve as an advisory body~~
4 ~~to the Oneida Veterans Department in matters related to Oneida Nation veterans's rights and~~
5 ~~benefits; and to protect the honor and integrity of the Oneida Nation and all veterans who served~~
6 ~~honorably in the United States Armed Forces.~~

7 ~~6-2. Policy. The policy of the Veterans Affairs Committee and the Oneida Veterans Service~~
8 ~~Office will be to verify the authenticity of groups or individuals, who claim to represent Oneida~~
9 ~~Veterans. Only those recognized groups who possess a valid federal, Wisconsin State or Oneida~~
10 ~~Tribal charter, or as an individual or a group sponsored by such an organization, shall be~~
11 ~~endorsed by the Veterans Affairs Committee to represent Oneida veterans and the Oneida Nation~~
12 ~~at various public functions involving veterans. The Veterans Service Office shall maintain a~~
13 ~~register listing those organizations sanctioned by the Veterans Affairs Committee as legitimate~~
14 ~~representatives of Oneida veterans and the Oneida Nation, such as:~~

15 a. ~~Veterans of Foreign Wars (VFW) Robert Cornelius Post #7784, National Charter, Tax~~
16 ~~# 23-7209491~~

17 b. ~~American Veterans (AMVETS) Post #54, National Charter, Tax # 39-1843547~~

18 c. ~~Wisconsin Indian Veterans Association (WIVA), Oneida Chapter, Charter pending.~~

19 ~~The Veterans Affairs Committee shall be the screening body for all requests for funding from the~~
20 ~~Oneida Nation made by individuals or groups who claim to be representing Oneida veterans.~~

21 ~~Only those requests from individuals or groups that are subsequently endorsed by the Veterans~~
22 ~~Affairs Committee shall be forwarded to the Oneida Business Committee with a~~
23 ~~recommendation for approval of the request for funding.~~
24

25
26
27
28
29 6-5. [KM36] Audio Recordings. All meetings of the ONVAC shall be audio recorded using a
30 recording device approved of and/or supplied by the Oneida Business
31 Committee Support Office.

32 (a) Audio recordings shall be maintained by the Oneida Business Committee
33 Support Office in accordance with the Open Records and Open Meetings
34 law.

35 (b) Exception. Audio recordings of executive session portions of a meeting
36 shall not be recorded.
37

38 **Article VII. Amendments.**

39 7-1. Amendments. The Veterans Affairs Committee, upon written notice, may at any of its
40 regular meetings, by a majority vote of the members present at a meeting of
41 an established quorum, amend or repeal these bylaws, provided that
42 the amendment or repeal has been submitted in writing at the previous
43 regular meeting.

44 (a) [KM37] Any amendments to these bylaws shall conform to the requirements
45 of the Boards, Committees and Commissions law and any
46 other policy of the Nation.

47 (b) All amendments and/or repeals of these bylaws shall be
48 approved by the Oneida Business Committee prior to
49 implementation.

50 (c) These ~~by laws~~ bylaws shall be reviewed on an annual basis.

51 These bylaws, as amended and revised, are hereby ~~attested to as~~ adopted by the Oneida Nation
52 Veterans Affairs Committee ~~at a duly called meeting by the Chairperson's signature on this _____ day~~
53 of _____ 1997

54 _____
55 _____

56 _____
57 ~~And~~ by approved by the Oneida Business Committee at a duly called meeting on this _____ day of
58 _____, 2019.

59 _____
60 _____
61 James D. Martin, Chairman
62 Oneida Nation Veterans Affairs Committee

63 _____
64 And ~~held on this _____ day of _____, 1997~~ approved by the Oneida Business Committee at a duly called
65 meeting held on this _____ day of _____ 2019, by the Secretary of the Oneida
66 Business Committee's signature.

67 _____
68 _____
69 _____
70 Lisa Summers, Tribal Secretary
71 Oneida Business Committee
72 _____



Legislative Operating Committee
 September 18, 2019

Oneida Pow-Wow Committee Bylaws Amendments

Submission Date: 10/03/18	Public Meeting: n/a
LOC Sponsor: David P. Jordan	Emergency Enacted: n/a Expires: n/a

Summary: *On September 26, 2018, the Oneida Business Committee (“OBC”) adopted the Boards, Committees and Commissions law (“Law”) through resolution BC-09-26-18-C, titled Amendments to the Comprehensive Policy Governing Boards, Committees and Commissions. Per Section 105.10 of the Law, within a reasonable time after its adoption, all existing boards, committees and commissions of the Nation must present bylaws for adoption that comply with the format and contain the minimal amount of information prescribed in the Law. In resolution BC-09-26-18-C, the OBC gave the Nation’s boards, committees and commissions six (6) months from the date of the Law’s adoption to present their bylaws. The OBC further directed that, within thirty (30) days of the Law’s adoption, the Legislative Reference Office hold at least two (2) informational meetings with the boards, committees and commissions for purposes of: (1) providing them with an update on the revised bylaws requirements that resulted from the Law’s adoption; (2) providing them with a template for the development of their revised bylaws; and (3) offering them any assistance in the development and drafting of their revised bylaws.*

10/3/18 LOC: Motion by Ernest Stevens III to add Oneida Powwow Committee By-Laws Amendments to the Active Files List; Seconded by Kirby Metoxen. Motion carried.

10/17/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Jennifer Webster, Dale Webster (ONCOA), Marlene Summers (ONCOA), Lois Strong (ONCOA), Sandra Reveles (OPC), Carol Silva (OPC), Brook Doxtator (OBCSU), Bonnie Pigman (OTEC), Chad Wilson (ERB), Dylan Benton (OTEC/Library), Chris Cornelius (OLC). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation’s boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws;

and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the first of the two informational meetings.

10/24/18: *Informational Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, Clorissa Santiago, Donald McLester (OLC), Chris Cornelius (OLC), Ronald King, Jr. (PFSC), Jeanette Ninham (PFSC), Vicki Cornelius (OEB & Pow-wow), Bonnie Pigman (OTEC), Lisa Liggins (School Board & OTEC), Rochelle Powless (ONCOA), Terry Hetzel (HRD), Patty Hoeft (Oneida Law Office), Brooke Doxtator (OBCSO), Arthur Elm (SEOTS), Diane Hill (SEOTS). Per resolution BC-09-26-18-C, adopting the amendments to the Comprehensive Policy Governing Boards, Committees and Commissions (n/k/a Boards, Committees and Commissions law), the LRO was directed to hold two (2) informational meetings for the Nation's boards, committees and commissions to provide them with: (1) an update on the new bylaws requirements mandated by the Boards, Committees and Commissions law; (2) a template for the boards, committees and commissions to use when revising their respective bylaws; and (3) assistance to the boards, committees and commissions in the development and drafting of their bylaws. This was the second of the two informational meetings.

11/20/18: *Pow-wow Committee Work Group Meeting.* Present: Tonya Webster, Kristen Hooker, Maureen Perkins, Trista Cornelius-Henrickson. The purpose of this meeting was to go through the rough draft version of the amendments to the Oneida Pow-wow Committee's bylaws and answer preliminary questions regarding the application of the Boards, Committees and Commissions law. The next step is for the Committee to submit a final draft of its amended bylaws to the LRO for review/revision.

1/31/19: *LOC Work Meeting.* Present: Jennifer Falck, Kristen M. Hooker, Maureen Perkins, David P. Jordan, Daniel Guzman-King, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to discuss the progress, in general, of the Nation's boards, committees and commissions on getting their bylaws amended and their likelihood of meeting the March 26, 2019 deadline set forth in resolution BC-09-26-18-C to present their bylaws to the Oneida Business Committee for adoption. Based on the discussion, a decision was made to have the LOC draft a memorandum to the Oneida Business Committee seeking an extension of the March 26, 2019 deadline for all boards, committees and commissions to present their bylaws amendments to the Oneida Business Committee for adoption.

2/5/19: *Pow-wow Committee Work Group Meeting.* Present: Tonya Webster, Kristen Hooker, Maureen Perkins, Trista Cornelius-Henrickson, Wayne Silas, Jr., Teresa Shuman. The purpose of this meeting was to go through the LRO Staff Attorney's revisions/suggestions to the draft of bylaws amendments that the Pow-wow Committee submitted to the LRO for review in advance of the deadline for requesting a legislative analysis from the LRO Legislative Analyst.

2/6/19 LOC: Motion by Jennifer Webster to approve the memorandum from Chairman David P. Jordan to the Oneida Business Committee seeking an extension of the March 26, 2019 bylaws amendments deadline and to forward the memorandum to the Oneida Business Committee to be placed on the February 13, 2019 Oneida Business Committee meeting agenda for consideration; Seconded by Kirby Metoxen. Motion carried.

2/6/19: *LOC Work Meeting.* Present: Kristen M. Hooker, Jennifer Falck, David P. Jordan, Kirby Metoxen, Jennifer Webster. The purpose of this meeting was to go through the final draft of the Pow-wow Committee's proposed bylaws amendments submitted in accordance with the Boards, Committees and Commissions law and adopting resolution BC-09-26-18-C.

2/20/19 LOC: Motion by Jennifer Webster to accept the Oneida Pow-wow Committee Bylaws Amendments and forward to the Oneida Business Committee for consideration; Seconded by Ernest Stevens III. Motion carried.

2/22/19: *OBC Work Session.* Present: Jennifer Falck, Kristen M. Hooker, Lisa Summers, Daniel Guzman-King, Jennifer Webster, Tehassi Hill, Brandon Stevens, Trish King, David P. Jordan, Kirby Metoxen. The purpose of this meeting was to discuss the February 13, 2019 memo from the LOC Chairman to the OBC regarding Amendments to Boards, Committees and Commissions By-Laws Timeline in which it requested an extension of the deadline for submitting bylaws to the OBC for adoption. During the meeting, the LRO Staff Attorney assigned this item provided a status update on the progress of the boards, committees and commissions on the amending of their bylaws to comply with the Boards, Committees and Commissions law within the six (6) month deadline imposed by resolution BC-09-26-18-C. The OBC decided not to grant an extension of the six (6) month deadline. Instead, the OBC directed the LRO to continue pushing the bylaws forward and to return to the March 19, 2019 OBC work session to provide a progress report on the boards, committees and commissions' bylaws amendments.

2/27/19 OBC: Motion by David P. Jordan to approve the Oneida Pow-wow Committee Bylaws, with (3) changes [1) insert language regarding the frequency of the update/review of the bylaws which will be formulated by the Legislative Reference Office based on the discussion today; 2) remove references to specific dollar amounts for stipends and compensation throughout; and 3) in section 1-5(d) include a requirement that the majority of current members be enrolled members of the Oneida Nation]; Seconded by Ernie Stevens III. Motion carried.

3/19/19: *OBC Work Session.* Present: Lisa Summers, Patricia King, Brandon Stevens, David P. Jordan, Daniel Guzman-King, Jo Anne House, Jennifer Falck, Clorissa Santiago, Kristen M. Hooker, Lisa Liggins, Cathy Bachhuber. The purpose of this OBC work session was for the Legislative Reference Office Staff Attorney to provide the OBC with a status update on the progress made by the boards, committees and commissions on the amending of their bylaws to conform to the Boards, Committees and Commissions law. Based on the update and the discussion that followed, the OBC: (1) decided to grant an exception to the March 26, 2019 deadline set forth in resolution BC-09-26-19-C for the Nation's boards, committees and commissions to present their bylaws to the OBC for adoption; and (2) directed the LRO to draft a memo for the next LOC meeting to be forwarded to the OBC indicating the same.

**During its subsequent review of the Oneida Gaming Commission's proposed bylaws amendments, the OBC decided to add the following requirements to all of the boards, committees and commissions' bylaws amendments: (1) that, the*

recommendations for termination be by a majority vote of the members in attendance at a meeting of the entity's established quorum; (2) that, notice of meetings be provided to all members of the entity without exception (per request of LOC that all meetings be duly called); (3) that, the sign-off level for all entities, not assigned a specific level therein, be the same as the Area Director/Enterprise Director level set forth in the Nation's purchasing manual, and that, two (2) of the entity's Officers be required to sign-off on all such purchases; (4) that, under the "Selection of Officers" section, a provision be added (as its own separate subsection) to allow members to be dismissed (not removed as initially proposed) from their Officer positions by a simple majority vote of the entity; (5) that, the entities review their bylaws each time a vacancy is filled by a new member; (6) that, stipend amounts not be listed in the entity's bylaws; and (7) that, assuming its adoption, the resolution governing joint meetings be referenced in the joint meeting section of the entity's bylaws.

3/20/19 LOC: Motion by Ernest Stevens III to approve the Boards, Committees and Commissions Bylaws Update Memo and forward to the Oneida Business Committee; Seconded by Daniel Guzman-King. Motion carried.

3/27/19 OBC: Motion by Lisa Summers to grant the seventeen (17) entities that have begun the process of amending their bylaws to conform to the Boards, Committees and Commissions law, an exception to the March 26, 2019, deadline set forth in resolution BC-09-26-18-C for presenting bylaws amendments to the Business Committee for adoption; Seconded by David P. Jordan. Motion carried.

**Although the Oneida Pow-wow Committee's By-Laws Amendments were adopted by the OBC on February 27, 2019 subject to three (3) revisions, the OBC has since directed that additional items be placed within all bylaws of the Nation; and thus, the Committee will have to further amend its bylaws to include those items.*

4/16/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens, Ernest Stevens III, Lisa Summers, Jo Anne House, Lisa Liggins, Kristen M. Hooker, Clorissa Santiago. The purpose of this OBC work session was to review the Election Board's bylaws amendments. During this meeting, the OBC also decided that all boards, committees and commissions must add the word "titled" next to the name of the purchasing manual they are required to reference in the "sign-off" section of their bylaws to provide clarification on why the term "Oneida Tribe of Indians" is being used instead of the "Nation".

5/1/19: *LOC Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Ernest Stevens III, Jennifer Webster, Kristen M. Hooker, Brandon Wisneski, Jennifer Falck, Clorissa Santiago, Maureen Perkins. The purpose of this meeting was to discuss some of the hurdles the LRO has encountered under the current bylaws amendments process and to consider whether a more efficient process should be implemented to get the Nation's boards, committees and commissions' bylaws amendments before the Oneida Business Committee for adoption.

7/29/19-7/30/19: *OBC Work Session.* Present: Daniel Guzman-King, David P. Jordan, Trish King, Brandon Stevens (7/29 only), Ernest Stevens III, Kirby Metoxen, Jennifer Webster, Tehassi Hill (7/29 only), Kristen Hooker, Jennifer Falck, Maureen Perkins, Brooke Doxtator, Laura Laitinen-Warren. The purpose of this work session was to provide the OBC an opportunity to review and consider all drafts of the Boards, Committees and Commissions' bylaws amendments in advance of being added to the OBC agenda for formal consideration and possible adoption.

Next Steps:

- Accept the Oneida Pow-wow Committee Bylaws Amendments.
- Forward the Oneida Pow-wow Committee Bylaws Amendments to the Oneida Business Committee for consideration.

1
2 **ONEIDA POW-WOW COMMITTEE BYLAWS**
3

4 **Article I. Authority**

5 1-1. *Name.* The name of this entity shall be the Oneida Pow-wow Committee and may
6 hereinafter be referred to as the Committee.
7

8 1-2. *Establishment.* This Committee was officially established by the Oneida Business
9 Committee through adoption of resolution BC-04-13-90-B and is further
10 recognized by the Oneida Business Committee through its approval of these
11 bylaws on October 15, 1997 and subsequent amendments on February 3,
12 1999, February 23, 2005, June 23, 2010, April 22, 2016, June 2, 2015, and
13 December 10, 2018.
14

15 1-3. *Authority.* The purpose of the Committee is to coordinate and manage annual Pow-
16 wows in order to encourage people to enjoy and participate in social
17 activities, such as dancing, singing, visiting, the renewing of old friendships
18 and the making of new ones, through the authority delegated to the
19 Committee by the laws of the Nation.
20

21 1-4. *Office.* The official mailing address of the Committee shall be:
22 Oneida Pow-wow Committee
23 P.O. Box 365
24 Oneida, WI 54155
25

26 1-5. *Membership.*
27 (a) *Number of Members.* The Committee shall be made up of no more than nine
28 (9) members and no less than (5) members.

29 (1) Each member shall hold office until his or her term expires, until his
30 or her resignation, or until his or her appointment is terminated in
31 accordance with the Boards, Committees and Commissions law.

32 (A) *Term Expiration.* Although a member's term has expired, he
33 or she shall remain in office until a successor has been sworn
34 in by the Oneida Business Committee.

35 (B) *Resignation.* A member may resign at any time verbally at a
36 meeting or by delivering written notice to the Oneida
37 Business Committee Support Office and the Committee
38 Chairperson or Chairperson's designee. The resignation is
39 deemed effective upon acceptance by motion of a member's
40 verbal resignation or upon delivery of the written notices.

41 (b) *Appointment.* Each Committee member shall be appointed in accordance
42 with the Boards, Committees and Commissions law to serve a three (3) year
43 term.

44 (1) Committee members shall not be limited in the number of terms that
45 can be served consecutively or otherwise.

- 46 (c) *Vacancies.* Vacancies on the Committee shall be filled in accordance with
47 the Boards, Committees and Commissions law.
48 (1) The Committee Chairperson shall review application materials and
49 provide the Oneida Business Committee with recommendations on
50 applicants for appointment by the executive session in which
51 appointments are intended to be made.
- 52 (d) *Qualifications of Members.* Committee members shall meet the following
53 qualifications:
54 (1) Must be an enrolled member or a descendant of an enrolled member
55 of the Oneida Nation;
56 (2) Must be at least eighteen (18) years of age or older;
57 (3) Must never have been convicted of a felony or misdemeanor related
58 to any of the following:
59 (A) Fraud;
60 (B) Theft; and/or
61 (C) Violent or sexual misconduct; and
62 (i) Any pardon issued by the Nation or the governor of
63 any state for a conviction specified above shall not
64 deem a person as “exonerated” for purposes of
65 qualifying for membership on the Committee.
66 (4) Must be able to dedicate weekends and nights to Committee related
67 obligations/activities.
68 (5) Within the pool of candidates that meet the requirements of sub-
69 sections (1) through (4), the Oneida Business Committee shall give
70 preference to those that have experience coordinating a Pow-wow
71 event or coordinating some other large community event.
72
- 73 1-6. *Termination of Appointment.* A member's appointment may be terminated in accordance
74 with the Boards, Committees and Commissions law.
75 (a) A violation of any of the expectations set forth in Article IV of these bylaws
76 shall be cause for the Committee to place the matter on its next agenda for
77 a vote by a majority of members in attendance at a Committee meeting of
78 an established quorum on whether to make a recommendation to the Oneida
79 Business Committee for termination of the member’s appointment in
80 accordance with the Boards, Committees and Commissions law.
81
- 82 1-7. *Trainings and Conferences.* Mandatory trainings/conferences for Committee members
83 shall be as follows:
84 (a) Each member shall be required to attend no more than one (1) full day of a
85 training or conference per year;
86 (b) Trainings/conferences shall be limited to the following subject areas:
87 (1) Planning/coordinating Pow-wow events;
88 (2) Ethics; and
89 (3) Event planning in general, whether relating to a Pow-wow event or
90 otherwise.

- 91 (c) Attendance shall be subject to approval of the Committee Chairperson and
92 contingent upon financing.
93 (d) Attending and/or participating in a Pow-wow does not constitute mandatory
94 trainings/conferences for purposes of stipend eligibility.
95 (e) Regardless of the number of trainings/conferences that he or she is required
96 to attend, no member of the Committee shall be eligible to receive stipends
97 for attending more than five (5) full days of mandatory trainings/
98 conferences per year.
99

100 **Article II. Officers**

- 101 2-1. *Officers.* The Committee shall have four (4) Officer positions: Chairperson, Vice-
102 Chairperson, Treasurer and Secretary.
103
104 2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the
105 Chairperson of the Committee shall be as follows:
106 (a) To call and preside over all meetings of the Committee and, with the
107 assistance of the Secretary, forward notice of meeting location, agenda,
108 documents and minutes in accordance with the Boards, Committees and
109 Commissions law.
110 (b) To be an ex officio member of all subcommittees of the Committee and
111 keep the Committee informed as to the business of the Committee and Pow-
112 wows.
113 (c) To sign and execute all contracts or other instruments, as needed, that have
114 been duly authorized under the Nation's accounting policies and, with the
115 assistance of the Treasurer, maintain the Committee's books and records in
116 accordance with all laws of the Nation.
117 (d) With the assistance of the Secretary, to submit annual and semi-annual
118 reports to the Oneida General Tribal Council and submit quarterly reports
119 to the Oneida Business Committee as required by the Boards, Committees
120 and Commissions law.
121 (e) To attend, or designate a Committee member to attend, the meetings of the
122 Oneida Business Committee where the Committee's quarterly report is on
123 the agenda.
124 (f) The above duties and responsibilities are not an all-inclusive list but rather
125 a general representation of the duties and responsibilities associated with
126 this Officer position. These duties and responsibilities are subject to change
127 based on organizational needs and/or as deemed necessary by the
128 Committee.
129
130 2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the
131 Vice-Chairperson shall be as follows:
132 (a) In the absence of the Chairperson, to conduct meetings of the Committee.
133 (b) In the absence of the Chairperson, to sign and execute all contracts or other
134 instruments, as needed, that have been duly authorized under the Nation's
135 accounting policies.

136 (c) The above duties and responsibilities are not an all-inclusive list but rather
137 a general representation of the duties and responsibilities associated with
138 this Officer position. These duties and responsibilities are subject to change
139 based on organizational needs and/or as deemed necessary by the
140 Committee.
141

142 2-4. *Responsibilities of the Treasurer.* The duties, responsibilities and limitations of the
143 Treasurer shall be as follows:

- 144 (a) To be aware of and have primary knowledge of all funds and securities of
145 the Committee and deposit of such funds.
- 146 (b) To prepare appropriation requests and, with the assistance of the Chair-
147 person, maintain the Committee's books and records in accordance with all
148 laws of the Nation.
- 149 (c) To report on the condition of the finances of the Committee at each regular
150 meeting of the Committee and at other times as required or requested.
- 151 (d) The above duties and responsibilities are not an all-inclusive list but rather
152 a general representation of the duties and responsibilities associated with
153 this Officer position. These duties and responsibilities are subject to change
154 based on organizational needs and/or as deemed necessary by the
155 Committee.
156

157 2-5. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the
158 Secretary shall be as follows:

- 159 (a) To keep minutes of the Committee meetings in an appropriate format and
160 assist the Chairperson with forwarding the notice of meeting location,
161 agenda, documents and minutes in accordance with these bylaws, the
162 Boards, Committees and Commissions law and the Open Records and Open
163 Meetings law.
- 164 (b) To assist the Chairperson in providing notice of regular and emergency
165 meetings of the Committee in accordance with these bylaws, the Boards,
166 Committees and Commissions law, and the Open Records and Open
167 Meetings law.
- 168 (c) To act as custodian of the records and maintain records in accordance with
169 the Open Records and Open Meetings law.
- 170 (d) To attest to the execution of instruments on behalf of the Committee by the
171 proper Officer.
- 172 (e) To attend to all correspondence and present to the Committee all official
173 communications received by the Committee.
- 174 (f) Along with the Chairperson, to submit annual and semi-annual reports to
175 the Oneida General Tribal Council and submit quarterly reports to the
176 Oneida Business Committee in accordance with the Boards, Committees
177 and Commissions law.
- 178 (g) In the event that both the Chairperson and Vice-Chairperson positions
179 become vacant before the end of their terms, call Committee meetings to
180 fill the vacancies and preside over those meetings for the sole purpose of

181 appointing new Officers, at which point the Chairperson, or Vice-
182 Chairperson in the absence of the Chairperson, shall preside.
183 (h) The above duties and responsibilities are not an all-inclusive list but rather
184 a general representation of the duties and responsibilities associated with
185 this Officer position. These duties and responsibilities are subject to change
186 based on organizational needs and/or as deemed necessary by the
187 Committee.
188

189 2-6. *Selection of Officers.* The Officers of the Committee shall be appointed by the Committee
190 for a three (3) year term by a majority vote of the members in attendance at
191 a regular or emergency Committee meeting of an established quorum.
192 (a) Each Officer shall hold his or her office until:
193 (1) The member resigns as an Officer.
194 (b) A vacancy of any Officer position shall be filled for the remainder of the
195 unexpired term by the Committee by a majority vote of the members in
196 attendance at a regular or emergency Committee meeting of an established
197 quorum.
198 (c) Committee members may be dismissed from their Officer positions by
199 majority vote of the members in attendance at a Committee meeting of an
200 established quorum.
201 (d) No Officer shall hold more than one (1) Officer position per Officer term.
202 (e) The designation of a term shall not grant to the Officer any vested or
203 contractual rights in serving the term.
204

205 2-7. *Budgetary Sign-Off Authority and Travel.* The Committee shall follow the Nation's
206 policies and procedures regarding purchasing and sign-off authority.
207 (a) Levels of budgetary sign-off authority for the Committee shall be as set
208 forth in the manual titled, *Oneida Tribe of Indians of Wisconsin Purchasing*
209 *Policies and Procedures*, for Area Directors/Enterprise Directors.
210 (1) All Committee Officers shall have sign-off authority and two (2)
211 Officers shall be required to sign-off on all budgetary requests,
212 including stipends and expenses.
213 (b) *Checks, Appropriations and Other Orders of Payment.* All checks and other
214 orders of payment shall be handled pursuant to the Nation's accounting
215 policies. All appropriation requests shall be prepared by the Treasurer of the
216 Committee or, in his or her absence, the Committee Chairperson's designee.
217 (c) *Deposits.* All funds of the Committee not otherwise obligated shall be
218 deposited back into the Pow-wow budget.
219 (d) *Standard Operating Procedures.* The Committee shall create standard
220 operating procedures for cash handling and for other financial/accounting
221 processes as deemed necessary by the Committee or the Oneida Business
222 Committee.
223 (1) All standard operating procedures created by the Committee shall
224 be filed with the Oneida Business Committee Support Office in
225 accordance with the Boards, Committees and Commissions law.

- 226 (2) The Committee shall review its standard operating procedures on an
227 annual basis for purposes of updating if necessary.
- 228 (e) *Books and Records.* The Committee's books and records shall be maintained
229 by the Chairperson and Treasurer of the Committee and shall be available
230 for examination by any Committee member or any member of the Oneida
231 Business Committee, along with any other interested party to the extent
232 authorized under the Open Records and Open Meetings law.
- 233 (f) The Committee shall approve a member's request to travel on behalf of the
234 Committee by a majority vote of the members in attendance at a regular or
235 emergency Committee meeting of an established quorum.

236

237 2-8. *Personnel.* The Committee shall not have authority to hire personnel for the benefit of
238 the Committee.

239 **Article III. Meetings**

240 3-1. *Regular Meetings.* Regular meetings of the Committee shall be held on the second Tuesday
241 of every month, commencing at 4:45 p.m., in Conference Room C of the
242 Skenandoah Complex located in Green Bay, Wisconsin.

- 243 (a) The regular meeting date, time and/or location shall be reviewed by the
244 Committee from time-to-time and may change as deemed necessary by a
245 majority vote of the members making up at least a quorum upon notice to
246 all members in writing and, along with the public, in accordance with the
247 Open Records and Open Meetings law prior to the implementation of a new
248 date, time and/or location.
- 249 (b) Notice of meeting location, agenda, documents and minutes shall be
250 forwarded by the Chairperson with the assistance of the Secretary to all
251 Committee members and the public in accordance with these bylaws and
252 the Open Records and Open Meetings law.
- 253 (c) Meetings shall be run in accordance with Robert's Rules of Order.

254

255 3-2. *Emergency Meetings.* An emergency meeting may be called when an urgent matter cannot
256 wait for a regular meeting.

- 257 (a) Emergency meetings of the Committee may be called by the Chairperson
258 or upon written request of any two (2) Committee members.
- 259 (b) Notice of an emergency meeting shall be given at least forty-eight (48)
260 hours prior to the date set for any such meeting.
- 261 (1) Advance notice of an emergency meeting shall be provided to all
262 Committee members in writing, as well as by telephone call, and,
263 along with the public, in accordance with the Open Records and
264 Open Meetings law.
- 265 (A) Written notice via email communication must be sent to
266 the official Oneida Nation email address that was provided
267 to all members to conduct business electronically on behalf
268 of the Committee.
- 269 (c) Within seventy-two (72) hours after an emergency meeting, the Committee
270 shall provide the Nation's Secretary with notice of the emergency meeting,

271 the reason for the emergency meeting, and an explanation as to why the
272 matter could not wait until the next regular meeting.

273
274 3-3. *Joint Meetings.* Joint meetings with the Oneida Business Committee shall be held within
275 the Oneida Business Committee Conference Room of the Norbert Hill
276 Center or at another agreed upon location on an as needed basis per the
277 approval of the Oneida Business Committee.

278 (a) Notice of the joint meeting agendas, documents and minutes shall be
279 provided, and the joint meeting conducted, in accordance with resolution
280 BC-03-27-19-D titled, Oneida Business Committee and Joint Meetings with
281 Boards, Committees and Commissions – Definitions and Impact, as may be
282 amended from time-to-time hereafter.

283
284 3-4. *Quorum.* A quorum consists of no less than a majority of the current membership and
285 must include the Chairperson or Vice-Chairperson.

286 (a) In lieu of the Chairperson and Vice-Chairperson, the Secretary may
287 complete a quorum for meetings that are called pursuant to section 2-5(g)
288 of these bylaws.

289
290 3-5. *Order of Business.* The regular meetings of the Committee shall follow the order of
291 business at set out herein:

- 292 (a) Call to Order
- 293 (b) Adopt the Agenda
- 294 (c) Approval of Minutes
- 295 (d) Old Business
- 296 (e) New Business
- 297 (f) Reports
- 298 (g) Other Business
- 299 (h) Executive Session
- 300 (i) Adjournment

301
302 3-6. *Voting.* A majority vote of the Committee members in attendance at a meeting of
303 an established quorum is required for official action of the Committee.

304 (a) The Chairperson, or Vice-Chairperson if presiding in lieu of the Chair-
305 person or Secretary if presiding under section 2-5(g) of these bylaws, shall
306 not be allowed to vote unless a tie needs to be broken.

307 (b) E-Polls are permissible and shall be conducted in accordance with the
308 Boards, Committees and Commissions law.

309 (1) The Vice-Chairperson will serve as the Chairperson’s designee for
310 the responsibility of conducting an e-poll at the discretion of the
311 Chairperson.

312

313 **Article IV. Expectations**

314 4-1. *Behavior of Members.* Committee members are expected to be respectful of others and to
315 arrive at meetings, as well as other Committee related activities, prepared

316 and on-time. The following behavior constitutes a violation of this section
317 of the bylaws:

318 (a) Missing three (3) unexcused consecutive Committee meetings without
319 sufficient justification.

320 (1) A Committee member will be deemed unexcused if he or she fails
321 to provide written notice of the intended absence to a Committee Officer at
322 least thirty (30) minutes in advance of the meeting that he or she will be
323 absent from.

324 (b) Being found guilty of or substantiated for committing any of the following:

325 (1) Acts of fraud;

326 (2) Acts of theft; and/or

327 (3) Any other acts of violence, dishonesty or abuse of power.

328 (c) *Enforcement.* If a member violates this or any other section of these bylaws,
329 he or she may be subject to any of the following upon majority vote of the
330 members present at a Committee meeting of an established quorum:

331 (1) Removal of the member from a meeting or other gathering of the
332 Committee, which could affect the member's stipend eligibility;

333 (2) Committee action to discipline the member in accordance with any
334 law of the Nation governing sanctions and penalties for appointed
335 officials; and/or

336 (3) A recommendation for termination of the member's appointment to
337 the Oneida Business Committee in accordance with the Boards,
338 Committees and Commissions law and/or any other law of the
339 Nation governing the termination of appointed officials.

340
341 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the
342 Committee that inflicts, attempts to inflict, or threatens to inflict emotional
343 or bodily harm on another person, or damage to property, are strictly
344 prohibited.

345
346 4-3. *Drug and Alcohol Use.* The use of alcohol and prohibited drugs by a member of the
347 Committee when acting in his or her official capacity is strictly prohibited.

348
349 4-4. *Social Media.* Committee members shall comply with the Oneida Nation's Social Media
350 Policy and their oath of office when using social media while acting on
351 behalf of or as a representative of the Committee.

352
353 4-5. *Conflict of Interest.* Committee members shall comply with all laws of the Nation
354 governing conflicts of interest.

355 356 **Article V. Stipends and Compensation**

357 5-1. *Stipends.* Dependent upon available budgeted funds, each Committee member shall
358 be eligible for the following stipends as set forth in and subject to these
359 bylaws, the Boards, Committees and Commissions law, and resolution BC-
360 05-08-19-B titled, Amending Resolution BC-09-26-18-D Boards,

361 Committees and Commissions Law Stipends, as may further be amended
362 from time-to-time hereafter:

- 363 (a) One (1) meeting stipend per month, provided that:
- 364 (1) A quorum was established;
 - 365 (2) The meeting of the established quorum last for a minimum of one
366 (1) hour; and
 - 367 (3) The Committee member collecting the stipend was physically
368 present for the entire meeting of the established quorum in
369 accordance with the Boards, Committees and Commissions law.
- 370 (b) For attending a conference or training, a stipend for each day of attendance,
371 provided that:
- 372 (1) The Committee member attended a full day of training or was
373 present at the conference for a full day; and
 - 374 (2) The Committee member's attendance at the conference or training
375 was required by law, bylaws or resolution.
- 376 (c) A stipend for attending a Judiciary hearing if the Committee member's
377 attendance at the hearing is required by official subpoena.
- 378 (d) A stipend for attending a duly called joint meeting between the Committee
379 and the Oneida Business Committee, provided that:
- 380 (1) A quorum was established by the Committee;
 - 381 (2) The joint meeting lasted for at least one (1) hour; and
 - 382 (3) The Committee member collecting the stipend was physically
383 present for the entire joint meeting.
- 384 (e) Members will be required to fill out a time-sheet for stipend requests.
385

386 5-2. *Compensation.* A Committee member shall be compensated on an hourly basis consistent
387 with resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-
388 D Boards, Committees and Commissions Law Stipends, as may further be
389 amended from time-to-time hereafter, for services he or she provides during
390 each Pow-wow event, contingent upon available budgeted funds.

- 391 (a) Services provided "during each Pow-wow event" shall include:
- 392 (1) Services relating to setting up the Pow-wow grounds and/or
393 location;
 - 394 (2) Services provided on the day(s) of the Pow-wow event; and
 - 395 (3) Services relating to taking down/cleaning up the Pow-wow grounds
396 and/or location.
- 397 (b) Committee members shall keep track of their hours of service provided
398 during a Pow-wow event on a timesheet.
- 399 (c) Besides the travel, per diem and business expense reimbursement
400 authorized by the Boards, Committees and Commissions law and as further
401 authorized herein, Committee members shall not be eligible to receive any
402 other form of compensation for the duties/activities they perform on behalf
403 of the Committee.
404
405
406

407 **Article VI. Records and Reporting**

408 6-1. *Agenda Items.* Agenda items shall be maintained in a format provided by the Oneida
409 Business Committee Support Office.

410
411 6-2. *Minutes.* Minutes shall be typed in a format provided by the Oneida Business
412 Committee Support Office and as agreed upon by the Committee to generate
413 the most informative record of the Committee's meeting and shall include
414 a summary of the action taken by the Committee during meetings.

415 (a) All minutes shall be submitted to the Oneida Business Committee Support
416 Office within two (2) business days of the meeting date.

417
418 6-3. *Attachments.* Any handouts, reports or documents shall be attached to the minutes and
419 agenda from the meeting in which they were presented and kept together in
420 an electronic filing system.

421
422 6-4. *Oneida Business Committee Liaison.* The Committee shall meet with the Oneida Business
423 Committee member who is its designated liaison as needed, the frequency
424 and method of communication to be agreed upon between the liaison and
425 the Committee, but no less than that required in any law or policy on
426 reporting developed by the Oneida Business Committee or Oneida General
427 Tribal Council.

428 (a) The Committee shall check in with its liaison on a quarterly basis.

429 (b) Purpose of the liaison relationship is to uphold the ability of the liaison to
430 act as support to the Committee.

431
432 6-5. *Audio Recordings.* All Committee meetings shall be audio recorded.

433 (a) The Oneida Business Committee Support Office shall supply a recording
434 device to the Committee in advance of each meeting.

435 (1) The Committee shall return, or the Oneida Business Committee
436 Support Office shall pick up, the recording device within two (2)
437 business days of each meeting.

438 (2) Audio recordings shall be maintained by the Oneida Business
439 Committee Support Office.

440 (b) *Exception.* Audio recordings of executive session portions of a meeting
441 shall not be required.

442

443 **Article VII. Amendments**

444 7-1. *Amendments.* Amendments shall be made to these bylaws at a regular meeting of the
445 Committee, provided that written notice of the proposed amendments is
446 made at a prior regular meeting.

447 (a) The Committee may amend these bylaws by the affirmative vote of a
448 majority of the members in attendance at a Committee meeting of an
449 established quorum.

450 (b) Amendments to these bylaws shall conform to the requirements of the
451 Boards, Committees and Commissions law and any other policy of the
452 Nation.

- 453 (c) Amendments to these bylaws shall be approved by the Oneida Business
- 454 Committee before implementation.
- 455 (d) The Committee shall review these bylaws on an annual basis.
- 456
- 457



Oneida Pow-wow Committee Bylaws Amendments Legislative Analysis

SECTION 1. EXECUTIVE SUMMARY

REQUESTER: Legislative Reference Office	SPONSOR: David P. Jordan	DRAFTER: Kristen M. Hooker	ANALYST: Maureen Perkins
Complies with Boards, Committees and Commissions Law	These amendments comply with the Boards, Committees and Commissions law [1 O.C. 105.10].		
Intent of the Bylaws	The intent of these amendments is to comply with the Oneida Business Committee (OBC) directives for amendments included in all boards, committees and commissions bylaws.		
Purpose	The purpose of the Pow-wow Committee (Committee) is to coordinate and manage annual pow-wows to encourage people to enjoy and participate in social activities, such as dancing, singing, visiting, the renewing old friendships and the making of new ones, through the authority delegated to the Committee by the laws of the Nation [Proposed Bylaws 1-3].		
Related Legislation	Oneida Nation Constitution, Boards, Committees and Commissions law, Travel and Expense Policy, Open Records and Open Meetings law		
Enforcement/Due Process	The Boards, Committees and Commissions law provides the termination process for appointed members. Members of the Committee serve at the discretion of the OBC. Upon the recommendation of a member of the OBC or by majority vote of the Committee [Proposed Bylaws 1-6(a)], a member of the Committee may have his or her appointment terminated by the OBC. A two-thirds majority vote of the OBC shall be required to terminate the appointment of an individual. The OBC's decision to terminate an appointment is final and not subject to appeal [1 O.C. 105.7-4].		
Public Meeting	Public meetings are not required for bylaws.		
Fiscal Impact	A fiscal impact statement is not required for bylaws.		

SECTION 2. BACKGROUND

- 1
- 2 A. The Committee bylaws amendments were added to the active files list on October 3, 2018, with David
- 3 P. Jordan as the sponsor. Although the bylaws amendments were approved by the OBC on February
- 4 27, 2019; the bylaws amendments remained on the LOC's active files list for additional OBC directed
- 5 amendments.
- 6 B. The Committee was officially recognized by the OBC through adoption of resolution BC-04-13-90-B
- 7 and bylaws were approved by the OBC most recently on February 27, 2019.
- 8

SECTION 3. COMPLIANCE WITH THE BOARDS, COMMITTEES AND COMMISSIONS LAW

- 9
- 10 A. The bylaws comply with the Boards, Committees and Commissions law.

- 11 B. The bylaws comply with OBC Resolution BC-05-08-19-B titled “Amending Resolution BC-09-26-18-
12 D Boards, Committees and Commissions Law Stipends” which details the types, specific dollar
13 amounts and eligibility requirements of stipends.
14 C. The proposed bylaws comply with OBC Resolution BC-03-27-19-D titled “Oneida Business
15 Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact”.
16

17 **SECTION 4. AMENDMENTS**

18 This section details the changes to the bylaws from the bylaws adopted February 27, 2019.

- 19 A. Qualifications. The following qualifications were changed: Committee members must be enrolled or
20 a descendant of an enrolled member of the Nation [*Proposed Bylaws 1-5(d)(1)*]. The qualification that
21 a candidate for membership have two (2) years of experience coordinating a Pow-wow, participating
22 in a Pow-wow, or coordinating a community event was changed to a preference [*Current Bylaws 1-
23 5(d)(5)*].
24
- 25 B. Trainings and Conferences. A provision was added that regardless of the number of
26 trainings/conferences a member of the Committee is required to attend; each member is only eligible
27 to receive stipends for up to five (5) full days of trainings/conferences attended per year [*Proposed
28 Bylaws 1-7(e)*].
29
- 30 C. Open Records and Open Meetings Law. A reference was added that notice of meetings will meet
31 requirements in the Nation’s Open Records and Open Meetings law [*Proposed Bylaws 2-5(b)*] [*1 O.C.
32 107.15*] in accordance with the Boards, Committees and Commissions law [*1 O.C. 105.10-3(f)*].
33
- 34 D. Officers. A provision was added that if both the Chairperson and the Vice-Chairperson positions
35 become vacant before the end of their terms; the Secretary will call and preside over a meeting until a
36 new Chairperson and Vice-Chairperson is elected. In this case, the Secretary may create a quorum
37 [*Proposed Bylaws 2-5(g)*] and [*Proposed Bylaws 3-4(a)*]. Provisions were added that Committee
38 members may be dismissed from an Officer position by majority vote at a meeting with an established
39 quorum [*Proposed Bylaws 2-6(c)*] and Committee members may only hold one (1) Officer position per
40 Officer term [*Proposed Bylaws 2-6(d)*].
41
- 42 E. Budgetary Sign-Off Authority and Travel. The sign-off authority levels have changed. The Committee
43 will follow the Nation’s policies and procedures regarding purchasing and sign-off authority and will
44 use levels for budgetary sign-off authority that are as set forth in the Oneida Tribe of Indians of
45 Wisconsin Purchasing Policies and Procedures Manuel for Area Directors/Enterprise Directors. All
46 Committee Officers shall have sign-off authority and two (2) Officers must sign-off on budgetary
47 requests, including stipends and expenses [*Proposed Bylaws 2-7(a)*].
- 48 • Although not applicable to the Committee; the Committee will follow the budgetary sign-off
49 levels dictated by the Oneida Tribe of Indians of Wisconsin Purchasing Policies and Procedures
50 Manuel for Area Directors/Enterprise Directors, page 217, which includes the following levels
51 of sign-off authority:
 - 52 i. Budgeted items with three bids for items between \$3,000 and \$10,000;
 - 53 ii. Unbudgeted items between \$1,000 and \$5,000; and
 - 54 iii. Budgeted but sole source items between \$1,000 and \$5,000.
 - 55 • The Committee will be required to create standard operation procedures (SOP’s) for cash
56 handling and for other financial/accounting processes as deemed necessary by the Committee
57 or the OBC. All SOP’s created by the Committee will be filed with the BCSO in accordance
58 with the Boards, Committees and Commissions law [*1 O.C. 105.12-2*]. The Committee is
59 required to update the SOP’s on an annual basis and update as necessary [*Proposed Bylaws 2-
60 7(d)*].

- All travel must be authorized by two (2) Officers in accordance with the Travel and Expense Policy [2 O.C. 219.4-2]. All travel must be approved through majority vote of a quorum of Committee members in attendance at a regular or emergency Committee meeting [Proposed Bylaws 2-7(f)] in accordance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(b)(6)(B)]. Committee members may travel in the Nation's vehicles when certified and must follow the Vehicle Driver Certification and Fleet Management law [2 O.C. 210].

F. Personnel. The Committee does not have the authority to hire personnel for the benefit of the Committee [Proposed Bylaws 2-8].

G. Emergency Meetings. A provision was added requiring an advance notice in writing and by telephone call to each member of the Committee at least twenty-four (24) hours before an emergency meeting is called. Notice by email must use the official Oneida Nation email provided to each member of the Committee [Proposed Bylaws 3-2(b)(1)].

H. Joint Meetings. The bylaws contain joint meetings with the OBC [Proposed Bylaws 3-3] on an as needed basis, with the approval of the OBC in compliance with the Boards, Committees and Commissions law [1 O.C. 105.10-3(c)(3)].

- Joint meetings will be held in the OBC conference room. The meeting notice, agenda documents and minutes for joint meetings will be provided and the joint meetings will be conducted in accordance with OBC Resolution BC-03-27-19-D titled "Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions – Definitions and Impact".

C. Stipends and Compensation. The ability for the Chairperson to designate someone to sign stipend requests was removed because this provision conflicts with the newly added sign-off authority section [Current Bylaws 5-1(e)(1)] [Proposed Bylaws 2-7(a)]. Committee members are only eligible for travel, per diem and business expense reimbursement [Proposed Bylaws 5-2(c)] as authorized in the Boards, Committees and Commissions law [1 O.C. 105.13-9] in accordance with the Nation's Travel and Expense Policy [2 O.C. 219.4-2].

D. Expectations. A definition was added for unexcused absence which requires written notice to a Committee Officer at least thirty (30) minutes before the meeting that he or she will be absent from [Proposed Bylaws 4-1(a)(1)].

E. Social Media. Detail was added requiring Committee members to abide by their oath of office when using social media while acting on behalf of or as a representative of the Committee [Proposed Bylaws 4-4].

F. Compensation. Detail was added that Committee members are not eligible for any form of compensation except for travel, per diem, business expense reimbursement and hourly compensation for services rendered during each pow-wow event [Proposed Bylaws 5-2(c)].

G. Amendments. Bylaws will be reviewed by the Board on an annual basis [Proposed Bylaws 7-1(d)].

H. Minor Changes. Minor changes were made throughout the bylaws amendments for clarity.

SECTION 5. LEGISLATION RELATED TO BOARDS, COMMITTEES AND COMMISSIONS

110 There are no conflicts between these bylaws and the Oneida Code of Laws. Below is a list of laws
111 referenced in the bylaws amendments.

112 A. Oneida Nation Constitution. The Constitution of the Oneida Nation contains a provision that allows
113 for the creation of committees for the proper conduct of tribal business of the Nation [*Oneida*
114 *Nation Constitution, Article IV, Section 1(g)*]. There are no conflicts between these bylaws and the
115 Oneida Nation Constitution.
116

117 B. Boards, Committees and Commissions [1 O.C. Chapter 105]. This law establishes all requirements
118 related to elected and appointed Boards, Committees and Commissions of the Nation. The law
119 governs the procedures regarding the appointment and election of persons to boards, committees
120 and commissions, creation of bylaws, maintenance of official records, compensation, and other
121 items related to boards, committees and commissions. The Committee is appointed by the OBC
122 [*Proposed Bylaws 1-5(b)*]. The requirements for entity bylaws are contained in this law as well as
123 a requirement that all existing entities of the Nation comply with the format detailed in the law and
124 present the bylaws for adoption by the OBC within a reasonable timeframe. The proposed bylaws
125 comply with and there are no conflicts with the Boards, Committees and Commissions law.
126

127 C. Travel and Expense Policy [1 O.C. Chapter 219]. Members of the Committee are eligible to be
128 reimbursed for travel and per diem to attend a conference or training in accordance with the
129 Nation's travel policies. A list of eligible training and conference topics is included in Article I. 1-
130 7 of the proposed bylaws. Two (2) of the Officers must sign off on travel requests in accordance
131 with this policy. There are no conflicts between the proposed bylaws and this policy.
132

133 D. Open Records and Open Meetings [1 O.C. Chapter 107]. The Committee must comply with this
134 law which details requirements for how meetings must be noticed and how meeting materials must
135 be maintained. Board meetings will be noticed [*Proposed Bylaws 2-2(a)*] and [*Proposed Bylaws*
136 *3-1(a)(1)*] in compliance with this law [*1 O.C. 107.15*]. The Board bylaws delegates the
137 maintenance of the records to the Secretary. The bylaws address the requirement that the records
138 must be maintained according to this law which details that the Secretary is the legal custodian of
139 the records [*Proposed Bylaws 2-5(c)*] and [*1 O.C. 107.6-3*]. Portions of the Committee meetings
140 may be considered closed meeting sessions if exception in this law related to personnel matters or
141 contracts are being discussed and deemed confidential [*1 O.C. 107.4-1*]. Public notice of meetings
142 is also required by this law [*1 O.C. 107.15-1*]. Meeting packets and backup materials are available
143 to all Board members at the meeting [*Proposed Bylaws 2-2(a)* and *2-5(a)*] and in accordance with
144 this law which states that any requestor has the right make or receive a copy of a public record [*1*
145 *O.C. 107.7-2*]. Audio recordings will be maintained by the BCSO in accordance with this law
146 [*Proposed Bylaws 6-5(a)(2)*] [*1 O.C. 107.7-3*].
147

148 E. Vehicle Driver Certification and Fleet Management [2 O.C. 210]. BCC's are considered entities
149 [*2 O.C. 210.3-1(g)*] and individual members are considered officials [*2 O.C. 210.3-1(j)*] under this
150 law and are authorized to travel in the Nation's vehicles. The law requires the Human Resources
151 Department or designee to ensure drivers, including BCC members, are certified to drive a vehicle
152 of the Nation or a personal vehicle on Tribal business. The law requires BCC members (officials)
153 to have written consent from the BCC they serve on prior to being approved to use a Tribal vehicle
154 [*2 O.C. 210.6-1(b)(2)*]. Certification includes providing the Human Resources Department with
155 the appropriate license, training certifications, and insurance information [*2 O.C. 210.8-1*].
156 Additionally, BCC members must abide by all reporting requirements in this law [*2 O.C. 210.9-2*].

- 157 a. BCC members who violate this law may be subject to:
- 158 i. any laws regarding sanctions or penalties; and
 - 159 ii. termination of appointment following the Boards, Committees and Commissions
160 law [*1 O.C. 105*].

Oneida Pow-wow Committee Bylaws

Article I. Authority

- 1-1. *Name.* The name of this entity shall be the Oneida Pow-wow Committee and may hereinafter be referred to as the Committee.
- 1-2. *Establishment.* This Committee was officially established by the Oneida Business Committee through adoption of resolution BC-04-13-90-B and is further recognized by the Oneida Business Committee through its approval of these bylaws on October 15, 1997 and subsequent amendments on February 3, 1999, February 23, 2005, June 23, 2010, April 22, 2016, June 2, 2015, and December 10, 2018.
- 1-3. *Authority.* The purpose of the Committee is to coordinate and manage annual Pow-wows in order to encourage people to enjoy and participate in social activities, such as dancing, singing, visiting, the renewing of old friendships and the making of new ones, through the authority delegated to the Committee by the laws of the Nation.
- 1-4. *Office.* The official mailing address of the Committee shall be:
 Oneida Pow-wow Committee
 P.O. Box 365
 Oneida, WI 54155
- 1-5. *Membership.*
- (a) *Number of Members.* The Committee shall be made up of no more than nine (9) members and no less than (5) members.
- (1) Each member shall hold office until his or her term expires, until his or her resignation, or until his or her appointment is terminated in accordance with the Boards, Committees and Commissions law.
- (A) *Term Expiration.* Although a member's term has expired, he or she shall remain in office until a successor has been sworn in by the Oneida Business Committee.
- (B) *Resignation.* A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Business Committee Support Office and the Committee Chairperson or Chairperson's designee. The resignation is deemed effective upon acceptance by motion of a member's verbal resignation or upon delivery of the written notices.
- (b) *Appointment.* Each Committee member shall be appointed in accordance with the Boards, Committees and Commissions law to serve a three (3) year term.
- (1) The Committee Chairperson shall review application materials and provide the Oneida Business Committee with recommendations on

- 46 applicants for appointment by the executive session in which
 47 appointments are intended to be made.
- 48 (A) The Chairperson shall recommend the appointment of
 49 qualified applicants who are members of the Oneida Nation
 50 over other qualified non-member applicants.
- 51 (2) Committee members shall not be limited in the number of terms that
 52 can be served consecutively or otherwise.
- 53 (c) *Vacancies.* Vacancies shall be filled in accordance with the Boards,
 54 Committees and Commissions law.
- 55 (1) The Committee Chairperson shall review application materials and
 56 provide the Oneida Business Committee with recommendations on
 57 applicants for appointment by the executive session in which
 58 appointments are intended to be made.
- 59 (A) The Chairperson shall recommend the appointment of
 60 qualified applicants who are members of the Oneida Nation
 61 over other qualified non-member applicants.
- 62 (d) *Qualifications of Members.* Committee members shall meet the following
 63 qualifications:
- 64 (1) Be a member of a federally-recognized Indian tribe;
- 65 (2) Have a minimum of two (2) years of experience coordinating a Pow-
 66 wow, participating in a Pow-wow, or coordinating a community
 67 event.
- 68 (A) Priority shall be given to those applicants with experience in
 69 either Pow-wow coordination or Pow-wow participation
 70 over those applicants with experience coordinating
 71 community events unrelated to Pow-wows.
- 72 (3) Must be at least eighteen (18) years of age or older;
- 73 (4) Must never have been convicted of a felony or misdemeanor related
 74 to any of the following:
- 75 (A) Fraud;
- 76 (B) Theft; and/or
- 77 (C) Violent or Sexual misconduct.
- 78 (i) Any pardon issued by the Nation or the governor of
 79 any state for a conviction specified above shall not
 80 deem a person as “exonerated” for purposes of
 81 qualifying for membership on the Committee.
- 82 (5) Must be able to dedicate weekends and nights to Committee related
 83 obligations/activities.
- 84
- 85 1-6. *Termination of Appointment.* A member's appointment may be terminated in accordance
 86 with the Boards, Committees and Commissions law.
- 87 (a) A violation of any of the expectations set forth in Article IV of these bylaws
 88 shall be cause for the Committee to place the matter on its next agenda for
 89 a vote by a majority of the quorum of members in attendance on whether to
 90 make a recommendation to the Oneida Business Committee for termination

of the member's appointment in accordance with the Boards, Committees and Commissions law.

1-7. *Trainings and Conferences.* Mandatory trainings/conferences for Committee members shall be as follows:

- (a) Each member shall be required to attend no more than one (1) full day of a training or conference per year;
- (b) Trainings/conferences shall be limited to the following subject areas:
 - (1) Planning/coordinating Pow-wow events;
 - (2) Ethics; and
 - (3) Event planning.
- (c) Attendance shall be subject to approval of the Committee Chairperson and contingent upon financing; and
- (d) Attending and/or participating in Pow-wow events does not constitute mandatory trainings/conferences for purposes of stipend eligibility.

Article II. Officers

2-1. *Officers.* The Committee shall have four (4) Officer positions: Chairperson, Vice-Chairperson, Treasurer and Secretary.

2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the Chairperson of the Committee shall be as follows:

- (a) Preside at all meetings of the Committee and, with the assistance of the Secretary, forward notice of meeting location, agenda, documents and minutes.
- (b) Shall be an ex officio member of all subcommittees of the Committee, may call joint or emergency meetings, and shall keep the Committee informed as to the business of the Committee and Pow-wows.
- (c) Sign and execute all contracts or other instruments, as needed, that have been duly authorized under the Nation's accounting policies and, with the assistance of the Treasurer, maintain the Committee's books and records in accordance with all laws of the Nation.
- (d) Shall, with the assistance of the Secretary, submit annual and semi-annual reports to the General Tribal Council and submit quarterly reports to the Oneida Business Committee as required by the Boards, Committees and Commissions law.
- (e) Shall attend, or designate a Committee member to attend, the meetings of the Oneida Business Committee where the Committee's quarterly report is on the agenda.
- (f) The above duties and responsibilities are not an all-inclusive list but rather a general representation of the duties and responsibilities associated with this Officer position. The duties and responsibilities will be subject to change based on organizational needs and/or as deemed necessary by the Committee.

- 136 2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the
 137 Vice-Chairperson shall be as follows:
- 138 (a) In the absence of the Chairperson, shall conduct meetings of the Committee.
 - 139 (b) In the absence of the Chairperson, shall sign and execute all contracts or
 140 other instruments, as needed, that have been duly authorized under the
 141 Nation's accounting policies.
 - 142 (c) The above duties and responsibilities are not an all-inclusive list but rather
 143 a general representation of the duties and responsibilities associated with
 144 this Officer position. The duties and responsibilities will be subject to
 145 change based on organizational needs and/or as deemed necessary by the
 146 Committee.
- 147
- 148 2-4. *Responsibilities of the Treasurer.* The duties, responsibilities and limitations of the
 149 Treasurer shall be as follows:
- 150 (a) Be aware of and have primary knowledge of all funds and securities of the
 151 Committee and deposit of such funds.
 - 152 (b) Prepare appropriation requests and, with the assistance of the Chairperson,
 153 maintain the Committee's books and records in accordance with all laws of
 154 the Nation.
 - 155 (c) Report on the condition of the finances of the Committee at each regular
 156 meeting of the Committee and at other times as required or requested.
 - 157 (d) The above duties and responsibilities are not an all-inclusive list but rather
 158 a general representation of the duties and responsibilities associated with
 159 this Officer position. The duties and responsibilities will be subject to
 160 change based on organizational needs and/or as deemed necessary by the
 161 Committee.
- 162
- 163 2-5. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the
 164 Secretary shall be as follows:
- 165 (a) Keep minutes of the Committee meetings in an appropriate format and, with
 166 the assistance of the Chairperson, forward notice of meeting location,
 167 agenda, documents and minutes.
 - 168 (b) Provide notice of regular, emergency and joint meetings of the Committee.
 - 169 (c) Act as custodian of the records and maintain records in accordance with the
 170 Nation's Open Records and Open Meetings law.
 - 171 (d) Attest to the execution of instruments on behalf of the Committee by the
 172 proper Officer.
 - 173 (e) Attend to all correspondence and present to the Committee all official
 174 communications received by the Committee.
 - 175 (f) Along with the Chairperson, submit annual and semi-annual reports to the
 176 General Tribal Council and submit quarterly reports to the Oneida Business
 177 Committee in accordance with the Boards, Committees and Commissions
 178 law.
 - 179 (g) The above duties and responsibilities are not an all-inclusive list but rather
 180 a general representation of the duties and responsibilities associated with
 181 this Officer position. The duties and responsibilities will be subject to

182 change based on organizational needs and/or as deemed necessary by the
 183 Committee.
 184

185 2-6. *Selection of Officers.* The Officers of the Committee shall be appointed by the Committee
 186 for a three (3) year term by a majority vote of the quorum in attendance at
 187 a regular or emergency meeting.

188 (a) Each Officer shall hold his or her office until:

189 (1) The member resigns as an Officer.

190 (b) A vacancy of any Officer position shall be filled by the Committee by a
 191 majority vote of the quorum in attendance at a regular or emergency
 192 meeting for the unexpired term.

193 (c) The designation of a term shall not grant to the Officer any vested or
 194 contractual rights in serving the term.
 195

196 2-7. *Budgetary Sign-Off Authority and Travel.* The Committee shall follow the Nation's
 197 policies regarding purchasing and sign-off authority.

198 (a) Budgetary sign-off authority for the Committee shall be as follows:

199 (1) Sign-off authority shall occur in accordance with the accounting
 200 policies of the Nation.

201 (2) The Committee Chairperson has sign-off authority on any duly
 202 authorized contracts of three thousand dollars (\$3,000) or less.

203 (b) *Checks, Appropriations and Other Orders of Payment.* All checks and other
 204 orders of payment shall be handled pursuant to the Nation's accounting
 205 policies. All appropriation requests shall be prepared by the Treasurer of the
 206 Committee or, in his or her absence, the Committee Chairperson's designee.

207 (c) *Deposits.* All funds of the Committee not otherwise obligated shall be
 208 deposited back into the Pow-wow budget.

209 (1) The Committee shall adopt policies and procedures for handling
 210 cash, accounting and record keeping for and during all Pow-wows.

211 (d) *Books and Records.* The Committee's books and records shall be maintained
 212 by the Chairperson and Treasurer of the Committee and shall be available
 213 for examination by any Committee member or any member of the Oneida
 214 Business Committee, along with any other interested party to the extent
 215 authorized under the Nation's Open Records and Open Meetings law.

216 (e) The Committee shall approve a member's request to travel on behalf of the
 217 Committee by a majority vote at a regular or emergency meeting of the
 218 Committee.
 219

220 2-8. *Personnel.* The Committee has authority, dependent upon budgeted funds and subject
 221 to the Oneida Business Committee's approval, to hire personnel for the
 222 benefit of the Committee.

223 (a) The hiring of all Committee personnel shall be conducted in accordance
 224 with the Nation's Personnel Policies and Procedures.
 225
 226

227 **Article III. Meetings**

228 3-1. *Regular Meetings.* Regular meetings shall be determined by the Committee. The regular
 229 meeting time, place and agenda shall be determined at a regular meeting. If
 230 no alternate designation is made by the Committee, the regular meetings
 231 shall be held on the second Tuesday of every month.

232 (a) Notice of meeting location, agenda, documents and minutes shall be
 233 forwarded by the Chairperson with the assistance of the Secretary.

234 (b) Meetings shall be run in accordance with Robert's Rules of Order.
 235

236 3-2. *Emergency Meetings.* An emergency meeting may be called when a matter cannot wait for
 237 a regular meeting.

238 (a) Emergency meetings of the Committee may be called by the Chairperson
 239 or upon written request of any two (2) Committee members.

240 (b) Notice of an emergency meeting shall be given at least forty-eight (48)
 241 hours prior to the date set for any such meeting.

242 (1) Notice may be communicated in person, by email, or other wire or
 243 wireless communication.

244 (c) Within seventy-two (72) hours after an emergency meeting, the Committee
 245 shall provide the Nation's Secretary with notice of the emergency meeting,
 246 the reason for the emergency meeting, and an explanation as to why the
 247 meeting could not wait until the next regular meeting.
 248

249 3-3. *Joint Meetings.* Joint meetings with the Oneida Business Committee shall be held at an
 250 agreed upon location on an as needed basis per the approval of the Oneida
 251 Business Committee.

252 (a) Subject to approval from the Oneida Business Committee, joint meetings of
 253 the Committee may be called by the Chairperson or upon written request of
 254 any two (2) Committee members.

255 (b) Notice of the meeting location, agenda, documents and minutes shall be
 256 forwarded by the Committee Chairperson with the assistance of the
 257 Committee Secretary.
 258

259 3-4. *Quorum.* A quorum consists of no less than a majority of the current membership and
 260 must include the Chairperson or Vice-Chairperson.
 261

262 3-5. *Order of Business.* The regular meetings of the Committee shall follow the order of
 263 business at set out herein:

264 (a) Call to Order

265 (b) Adopt the Agenda

266 (c) Approval of Minutes

267 (d) Old Business

268 (e) New Business

269 (f) Reports

270 (g) Other Business

271 (h) Executive Session

272 (i) Adjournment

- 273
274 3-6. *Voting.* Voting shall be in accordance with a majority vote of the quorum of
275 Committee members present at a duly called meeting.
276 (a) The Chairperson shall not be allowed to vote unless a tie needs to be broken.
277 (b) E-Polls are permissible and shall be conducted in accordance with the
278 Boards, Committees and Commissions law.
279 (c) The Vice-Chairperson will serve as the Chairperson's designee for the
280 responsibility of conducting an e-poll at the discretion of the Chairperson.
281

282 **Article IV. Expectations**

- 283 4-1. *Behavior of Members.* Committee members are expected to be respectful of others and to
284 arrive at meetings, as well as other Committee related activities, prepared
285 and on-time. The following behavior constitutes a violation of this Section
286 of the bylaws:
287 (a) Missing three (3) unexcused consecutive Committee meetings without
288 sufficient justification.
289 (1) A Committee member will be deemed unexcused if he or she fails
290 to provide notice of the intended absence to a Committee member
291 in advance of the meeting that he or she will be absent from.
292 (b) Being found guilty of or substantiated for committing any of the following:
293 (1) Acts of fraud;
294 (2) Acts of theft; and/or
295 (3) Any other acts of violence, dishonesty or abuse of power.
296 (c) *Enforcement.* If a member violates this or any other Section set forth in
297 Article IV of these bylaws, he or she may be subject to any of the following
298 upon majority vote of the quorum present at a duly called meeting:
299 (1) Removal of the member from a meeting or other gathering of the
300 Committee, which could affect the member's stipend eligibility;
301 (2) Committee action to discipline the member in accordance with any
302 law of the Nation governing sanctions and penalties for appointed
303 officials; and/or
304 (3) A recommendation for termination of the member's appointment to
305 the Oneida Business Committee in accordance with the Boards,
306 Committees and Commissions law and/or any other law of the
307 Nation governing the termination of appointed officials.
308
- 309 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the
310 Committee that inflicts, attempts to inflict, or threatens to inflict emotional
311 or bodily harm on another person, or damage to property, are strictly
312 prohibited.
313
- 314 4-3. *Drug and Alcohol Use.* The use of alcohol and prohibited drugs by a member of the
315 Committee when acting in his or her official capacity is strictly prohibited.
316
- 317 4-4. *Social Media.* Committee members shall comply with the Oneida Nation's Social Media
318 Policy.

319
 320 4-5. *Conflict of Interest.* Committee members shall comply with all laws of the Nation
 321 governing conflicts of interest.
 322

323 **Article V. Stipends and Compensation**

324 5-1. *Stipends.* Dependent upon available budgeted funds, each Committee member shall
 325 be eligible for the following stipends as set forth in the Boards, Committees
 326 and Commissions law and resolution BC-09-26-18-D titled Boards,
 327 Committees and Commissions Law Stipends:

328 (a) One (1) meeting stipend per month of seventy-five dollars (\$75) provided
 329 that:

- 330 (1) A quorum was established;
- 331 (2) The meeting of the established quorum last for a minimum of one
 332 (1) hour; and
- 333 (3) The Committee member collecting the stipend was physically
 334 present for the entire meeting of the established quorum in
 335 accordance with the Boards, Committees and Commissions law.

336 (b) For attending a conference or training, a stipend of one hundred dollars
 337 (\$100) for each day of attendance, provided that:

- 338 (1) The Committee member attended a full day of training or was
 339 present at the conference for a full day; and
- 340 (2) The Committee member's attendance at the conference or training
 341 was required by law, bylaw or resolution.

342 (c) Stipends for attending Judiciary hearings if the Committee member is
 343 specifically subpoenaed.

344 (d) A stipend of seventy-five dollars (\$75) for attending a duly called joint
 345 meeting between the Committee and the Oneida Business Committee,
 346 provided that:

- 347 (1) A quorum was established by both the Committee and the Oneida
 348 Business Committee;
- 349 (2) The joint meeting of established quorums lasted for at least one (1)
 350 hour; and
- 351 (3) The Committee member collecting the stipend was physically
 352 present for the entire joint meeting.

353 (e) Members will be required to fill out a time-sheet for stipend requests.

- 354 (1) Stipend requests must be signed by the Committee Chairperson or
 355 Chairperson's designee.

356
 357 5-2. *Compensation.* A Committee member shall be compensated twenty-five dollars (\$25) per
 358 hour for services he or she provides during each Pow-wow event, not to
 359 exceed two hundred dollars (\$200) per day and contingent upon available
 360 budgeted funds.

361 (a) Services provided "during each Pow-wow event" shall include:

- 362 (1) Services relating to setting up for the Pow-wow event;
- 363 (2) Services provided on the day(s) of the Pow-wow event; and

- 364 (3) Services relating to taking down/cleaning up after the Pow-wow
 365 event.
 366 (b) Committee members shall keep track of their hours of service provided
 367 during a Pow-wow event on a timesheet.
 368

369 **Article VI. Records and Reporting**

- 370 6-1. *Agenda Items.* Agenda items shall be maintained in a format provided by the Oneida
 371 Business Committee Support Office.
 372
 373 6-2. *Minutes.* Minutes shall be typed in a format provided by the Oneida Business
 374 Committee Support Office and as agreed upon by the Committee to generate
 375 the most informative record of the Committee's meeting and shall include
 376 a summary of the action taken by the Committee during meetings.
 377 (a) All minutes shall be submitted to the Oneida Business Committee Support
 378 Office within two (2) business days of the meeting date.
 379
 380 6-3. *Attachments.* Attachments to the minutes and agenda from the meeting in which they
 381 were presented shall be kept together in an electronic filing system.
 382
 383 6-4. *Oneida Business Committee Liaison.* The Committee shall meet with the Oneida Business
 384 Committee member who is its designated liaison as needed, the frequency
 385 and method of communication to be agreed upon between the liaison and
 386 the Committee.
 387 (a) The Committee shall check in with its liaison on a quarterly basis.
 388 (b) Purpose of the liaison relationship is to uphold the ability of the liaison to
 389 act as support to the Committee.
 390
 391 6-5. *Audio Recordings.* All Committee meetings shall be audio recorded.
 392 (a) The Oneida Business Committee Support Office shall supply a recording
 393 device to the Committee in advance of each meeting.
 394 (1) The Committee shall return, or the Oneida Business Committee
 395 Support Office shall pick up, the recording device within two (2)
 396 business days of each meeting.
 397 (2) Audio recordings shall be maintained by the Oneida Business
 398 Committee Support Office.
 399 (b) *Exception.* Audio recordings of executive session portions of a meeting
 400 shall not be required.
 401

402 **Article VII. Amendments**

- 403 7-1. *Amendments.* Amendments shall be made to these bylaws at a regular meeting of the
 404 Committee, provided that written notice of the proposed amendments is
 405 made at a prior regular meeting.
 406 (a) The Committee may amend these bylaws by the affirmative vote of a
 407 majority of the quorum present at the meeting.

- 408 (b) Amendments to these bylaws shall conform to the requirements of the
- 409 Boards, Committees and Commissions law and any other policy of the
- 410 Nation.
- 411 (c) Amendments to these bylaws shall be approved by the Oneida Business
- 412 Committee before implementation.

413 [SIGNATURE BLOCK NEEDS TO BE ADDED]

414

415

~~Oneida Pow-wow Committee Bylaws~~
ONEIDA POW-WOW COMMITTEE BYLAWS

Article I. Authority

1-1. *Name.* The name of this entity shall be the Oneida Pow-wow Committee and may hereinafter be referred to as the Committee.

1-2. *Establishment.* This Committee was officially established by the Oneida Business Committee through adoption of resolution BC-04-13-90-B and is further recognized by the Oneida Business Committee through its approval of these bylaws on October 15, 1997 and subsequent amendments on February 3, 1999, February 23, 2005, June 23, 2010, April 22, 2016, June 2, 2015, and December 10, 2018.

1-3. *Authority.* The purpose of the Committee is to coordinate and manage annual Pow-wows in order to encourage people to enjoy and participate in social activities, such as dancing, singing, visiting, the renewing of old friendships and the making of new ones, through the authority delegated to the Committee by the laws of the Nation.

1-4. *Office.* The official mailing address of the Committee shall be:
Oneida Pow-wow Committee
P.O. Box 365
Oneida, WI 54155

1-5. *Membership.*
(a) *Number of Members.* The Committee shall be made up of no more than nine (9) members and no less than (5) members.

(1) Each member shall hold office until his or her term expires, until his or her resignation, or until his or her appointment is terminated in accordance with the Boards, Committees and Commissions law.

(A) *Term Expiration.* Although a member’s term has expired, he or she shall remain in office until a successor has been sworn in by the Oneida Business Committee.

(B) *Resignation.* A member may resign at any time verbally at a meeting or by delivering written notice to the Oneida Business Committee Support Office and the Committee Chairperson or Chairperson’s designee. The resignation is deemed effective upon acceptance by motion of a member’s verbal resignation or upon delivery of the written notices.

(b) *Appointment.* Each Committee member shall be appointed in accordance with the Boards, Committees and Commissions law to serve a three (3) year term.

~~(1) The Committee Chairperson shall review application materials and provide the Oneida Business Committee with recommendations on~~

47 ~~_____ applicants for appointment by the executive session in which~~
48 ~~_____ appointments are intended to be made.~~

49 ~~_____ (A) The Chairperson shall recommend the appointment of~~
50 ~~_____ qualified applicants who are members of the Oneida Nation~~
51 ~~_____ over other qualified non-member applicants.~~

52 ~~_____ (2) (1) Committee members shall not be limited in the~~
53 ~~number of terms that _____ can be served consecutively or otherwise.~~

54 (c) *Vacancies.* Vacancies on the Committee shall be filled in accordance with
55 ~~_____ the _____~~ Boards,
56 ~~_____ Committees and Commissions law.~~

57 (1) The Committee Chairperson shall review application materials and
58 provide the Oneida Business Committee with recommendations on
59 applicants for appointment by the executive session in which
60 appointments are intended to be made. _____

61 ~~_____ (A) The Chairperson shall recommend the appointment of~~
62 ~~_____ qualified applicants who are members of the Oneida Nation~~
63 ~~_____ over other qualified non-member applicants.~~

64 (d) *Qualifications of Members.* Committee members shall meet the following
65 qualifications:

66 (1) ~~Be a~~ Must be an enrolled member or a descendant of ~~a federally-~~
67 ~~recognized Indian tribe;~~ an enrolled member _____ of the Oneida Nation;

68 _____
69 (2) ~~Have a minimum of two (2) years of experience coordinating a Pow-~~
70 ~~wow, participating in a Pow wow, or coordinating a community~~
71 ~~event.~~

72 (A) ~~Priority shall be given to those applicants with experience in~~
73 ~~either Pow wow coordination or Pow wow participation~~
74 ~~over those applicants with experience coordinating~~
75 ~~community events unrelated to Pow wows.~~

76 ~~_____ (3) Must be at least eighteen (18) years of age or older;~~

77 ~~(4) Must never have been convicted of a felony or misdemeanor related~~
78 ~~to any of the following:~~

79 (A) Fraud;

80 (B) Theft; and/or

81 (C) Violent or ~~Sexual~~ sexual misconduct; ~~and~~

82 (i) Any pardon issued by the Nation or the governor of
83 any state for a conviction specified above shall not
84 deem a person as “exonerated” for purposes of
85 qualifying for membership on the Committee.

86 ~~(5) Must be able to dedicate weekends and nights to Committee related~~
87 ~~obligations/activities.~~

88 (5) Within the pool of candidates that meet the requirements of sub-
89 sections (1) through (4), the Oneida Business Committee shall give
90 preference to those that have experience coordinating a Pow-wow
91 event or coordinating some other large community event.

92

93 1-6. *Termination of Appointment.* A member's appointment may be terminated in accordance
94 with the Boards, Committees and Commissions law.

95 (a) A violation of any of the expectations set forth in Article IV of these bylaws
96 shall be cause for the Committee to place the matter on its next agenda for
97 a vote by a majority of ~~the quorum of~~ members in attendance at a Committee
98 meeting of an established quorum on whether to _____
99 _____make a recommendation to the Oneida _____Business Committee for
100 termination _____of the member's appointment in _____
101 _____accordance with the Boards, Committees _____and
102 Commissions law.

104 1-7. *Trainings and Conferences.* Mandatory trainings/conferences for Committee members
105 shall be as follows:

- 106 (a) Each member shall be required to attend no more than one (1) full day of a
107 training or conference per year;
- 108 (b) Trainings/conferences shall be limited to the following subject areas:
109 (1) Planning/coordinating Pow-wow events;
110 (2) Ethics; and
111 (3) Event planning- in general, whether relating to a Pow-wow event or
112 otherwise.
- 113 (c) Attendance shall be subject to approval of the Committee Chairperson and
114 contingent upon financing; ~~and.~~
- 115 (d) Attending and/or participating in a Pow-wow events does not constitute
116 _____mandatory _____trainings/conferences for purposes of stipend eligibility.
- 117 (e) Regardless of the number of trainings/conferences that he or she is required
118 to attend, no member of the Committee shall be eligible to receive stipends
119 for attending more than five (5) full days of mandatory trainings/
120 conferences per year.

121 ~~(d)~~

122 **Article II. Officers**

123 2-1. *Officers.* The Committee shall have four (4) Officer positions: Chairperson, Vice-
124 Chairperson, Treasurer and Secretary.

126 2-2. *Responsibilities of the Chairperson.* The duties, responsibilities and limitations of the
127 Chairperson of the Committee shall be as follows:

128 (a) ~~Preside at~~To call and preside over all meetings of the Committee and, with
129 the _____assistance of the _____
130 _____Secretary, forward notice of meeting location, agenda,
131 _____documents and _____minutes in accordance
132 with the Boards, Committees and _____Commissions law.

133 (b) ~~Shall~~To be an ex officio member of all subcommittees of the Committee;
134 ~~may _____call joint or emergency meetings, and shall- and _____~~
135 _____keep the Committee informed _____as to the business of
136 the Committee and Pow-_____wows.

137 (c) ~~Sign~~To sign and execute all contracts or other instruments, as needed, that
138 have _____been duly authorized under the Nation's accounting policies

139 and, with the assistance of the Treasurer, maintain the
140 Committee's books and records in accordance with all laws of the Nation.

141 (d) ~~Shall, with~~With the assistance of the Secretary, ~~to~~ submit annual and semi-
142 annual ~~_____~~ reports to the ~~Oneida~~ General Tribal Council
143 and submit quarterly reports ~~_____~~ to the ~~_____~~
144 ~~_____~~Oneida Business Committee as required by the Boards, Committees
145 ~~_____~~ and ~~_____~~ Commissions law.

146 (e) ~~Shall~~To attend, or designate a Committee member to attend, the meetings
147 of ~~_____~~ the ~~_____~~ Oneida Business Committee where the
148 Committee's quarterly report is ~~_____~~ on ~~_____~~ the
149 agenda.

150 (f) The above duties and responsibilities are not an all-inclusive list but rather
151 a general representation of the duties and responsibilities associated with
152 this Officer position. ~~The~~These duties and responsibilities ~~will be~~are subject
153 to ~~_____~~ change ~~_____~~ based on organizational needs and/or
154 as deemed necessary by the ~~_____~~ Committee.

156 2-3. *Responsibilities of the Vice-Chairperson.* The duties, responsibilities and limitations of the
157 Vice-Chairperson shall be as follows:

158 (a) In the absence of the Chairperson, ~~shall~~to conduct meetings of the
159 Committee.

160 (b) In the absence of the Chairperson, ~~shall~~to sign and execute all contracts or
161 ~~_____~~ other ~~_____~~ instruments, as needed, that have been duly
162 authorized under the ~~_____~~ Nation's ~~_____~~
163 ~~_____~~ accounting policies.

164 (c) The above duties and responsibilities are not an all-inclusive list but rather
165 a general representation of the duties and responsibilities associated with
166 this Officer position. ~~The~~These duties and responsibilities ~~will be~~are subject
167 to ~~_____~~ change ~~_____~~ based on organizational needs and/or as
168 deemed necessary by the ~~_____~~ Committee.

170 2-4. *Responsibilities of the Treasurer.* The duties, responsibilities and limitations of the
171 Treasurer shall be as follows:

172 (a) ~~Be~~To be aware of and have primary knowledge of all funds and securities
173 of the ~~_____~~ Committee and deposit of such funds.

174 (b) ~~Prepare~~To prepare appropriation requests and, with the assistance of the
175 ~~Chairperson~~Chair- person, maintain the Committee's books and records in
176 accordance with all laws of the Nation.

177 (c) ~~Report~~To report on the condition of the finances of the Committee at each
178 regular meeting of the Committee and at other times as required or
179 requested.

180 (d) The above duties and responsibilities are not an all-inclusive list but rather
181 a general representation of the duties and responsibilities associated with
182 this Officer position. ~~The~~These duties and responsibilities ~~will be~~are subject
183 to ~~_____~~ change ~~_____~~ based on organizational needs and/or

184 as deemed necessary by the _____
185 Committee.

187 2-5. *Responsibilities of the Secretary.* The duties, responsibilities and limitations of the
188 Secretary shall be as follows:

189 (a) ~~_____ (a) _____~~ Keep~~To keep~~ minutes of the Committee meetings in an
190 appropriate format and, ~~with _____ the assistance of~~ assist the
191 Chairperson, ~~forward~~ with forwarding the notice of meeting location,
192 _____ agenda, documents and minutes in accordance with
193 these bylaws, the Boards, Committees and Commissions law and the Open
194 Records and Open Meetings law.

195 ~~_____ (b) _____~~ To assist the Chairperson in providing notice of regular and emergency
196 meetings of the Committee in accordance with these bylaws, the Boards,
197 Committees and Commissions law, and the Open Records and Open
198 Meetings law.

200 (c) ~~Act~~To act as custodian of the records and maintain records in accordance
201 with _____ the _____ Nation's Open Records and Open Meetings law.

202 (d) ~~Attest~~To attest to the execution of instruments on behalf of the Committee
203 by the _____ proper Officer.

204 (e) ~~Attend~~To attend to all correspondence and present to the Committee all
205 official _____ communications received by the Committee.

206 (f) Along with the Chairperson, to submit annual and semi-annual reports to
207 ~~the _____~~ the Oneida General Tribal Council
208 and submit quarterly reports to the _____
209 _____ Oneida Business _____ Committee in accordance with the Boards,
210 Committees _____ and Commissions _____
211 _____ law.

212 ~~_____ (g) _____~~ In the event that both the Chairperson and Vice-Chairperson
213 positions _____ become vacant before the end of their terms, call
214 Committee meetings to _____ fill the vacancies and preside over
215 those meetings for the sole purpose of _____ appointing _____ new
216 Officers, at which point the Chairperson, or Vice-
217 Chairperson in the absence of the Chairperson, shall preside.

218 (h) The above duties and responsibilities are not an all-inclusive list but rather
219 a general representation of the duties and responsibilities associated with
220 this Officer position. ~~The~~These duties and responsibilities ~~will be~~are subject
221 to _____ change _____ based on organizational needs and/or as
222 deemed necessary by the _____ Committee.

224 2-6. *Selection of Officers.* The Officers of the Committee shall be appointed by the Committee
225 for a three (3) year term by a majority vote of the ~~quorum~~members in
226 attendance at _____ a regular or emergency Committee
227 meeting of an established quorum.

228 (a) Each Officer shall hold his or her office until:
229 (1) The member resigns as an Officer.

230 (b) A vacancy of any Officer position shall be filled for the remainder of the
231 unexpired term by the Committee by a _____ majority vote
232 of the ~~quorum~~ members in _____ attendance at a regular or emergency
233 ~~_____ Committee~~ meeting for the unexpired term of an established
234 quorum.

235 ~~_____ (e)~~ (c) Committee members may be dismissed from their Officer positions
236 by _____ majority vote of the members in attendance at a Committee
237 meeting of an _____ established quorum.

238 (d) No Officer shall hold more than one (1) Officer position per Officer term.

239 (e) The designation of a term shall not grant to the Officer any vested or
240 contractual rights in serving the term.

241
242 2-7. *Budgetary Sign-Off Authority and Travel.* The Committee shall follow the Nation's
243 policies and procedures regarding purchasing and sign-off authority.

244 (a) ~~Budgetary~~ Levels of budgetary sign-off authority for the Committee shall be
245 as follows:

246 ~~_____ (1) _____ Sign-off authority shall occur set~~
247 _____ forth in accordance with the accounting _____ policies of the
248 Nation. manual titled, Oneida Tribe of Indians of Wisconsin Purchasing
249 Policies and Procedures, for Area Directors/Enterprise Directors.

250 ~~_____ (2) _____ The Committee Chairperson has sign-off authority on any duly~~
251 _____ authorized contracts of three thousand dollars (\$3,000) or less.

252 (1) All Committee Officers shall have sign-off authority and two (2)
253 Officers shall be required to sign-off on all budgetary requests,
254 including stipends and expenses.

255 (b) *Checks, Appropriations and Other Orders of Payment.* All checks and other
256 orders of payment shall be handled pursuant to the Nation's accounting
257 policies. All appropriation requests shall be prepared by the Treasurer of the
258 Committee or, in his or her absence, the Committee Chairperson's designee.

259 (c) *Deposits.* All funds of the Committee not otherwise obligated shall be
260 deposited back into the Pow-wow budget. _____

261 ~~_____ (1) _____ (d) _____ Standard Operating Procedures.~~ The
262 Committee shall adopt policies and create standard
263 operating procedures for cash handling _____ cash, and for
264 other financial/accounting _____ processes as deemed
265 necessary by the Committee or the Oneida Business
266 Committee.

267 (1) All standard operating procedures created by the Committee shall
268 be filed with the Oneida Business Committee Support Office in
269 accordance with the Boards, Committees and record keeping for and
270 during all Pow wows Commissions law.

271 ~~_____ (d) _____~~ (2) The Committee shall review its standard operating
272 procedures on an _____ annual basis for purposes of updating if necessary.

273 (e) *Books and Records.* The Committee's books and records shall be maintained
274 by the Chairperson and Treasurer of the Committee and shall be available

275 for examination by any Committee member or any member of the Oneida
276 Business Committee, along with any other interested party to the extent
277 authorized under the ~~Nation's~~ Open Records and Open Meetings law.

278 (ef) The Committee shall approve a member's request to travel on behalf of the
279 Committee by a majority vote of the members in attendance at a regular or
280 emergency ~~Committee~~ meeting of the ~~the~~ Committee ~~an~~
281 established quorum.

282
283 2-8. *Personnel.*- The Committee ~~has~~shall not have authority, ~~dependent upon budgeted funds~~
284 ~~and subject~~ ~~to the Oneida Business Committee's approval~~, to hire personnel for
285 the ~~the~~ benefit of ~~the~~ Committee.

286 (a) ~~The hiring of all Committee personnel shall be conducted in accordance~~
287 ~~with the Nation's Personnel Policies and Procedures.~~

288
289

290 **Article III. Meetings**

291 3-1. *Regular Meetings.* Regular meetings ~~shall be determined by~~of the Committee- shall be
292 held on the second Tuesday of every month, commencing at 4:45 p.m., in
293 Conference Room C of the Skenandoah Complex located in
294 Green Bay, Wisconsin.

295 (a) The regular ~~meeting~~ date, time,
296 place and agenda/or location shall be determined at a regular meeting. If ~~no~~
297 alternate designation is made by the ~~reviewed by the~~
298 Committee, the regular meetings ~~shall be held on the~~
299 second Tuesday of every month, from time-to-time and may change as deemed necessary by a
300 majority vote of the members making up at least a quorum upon notice to
301 all members in writing and, along with the public, in accordance with the
302 Open Records and Open Meetings law prior to the implementation of a new
303 date, time and/or location.

304 (ab) Notice of meeting location, agenda, documents and minutes shall be
305 forwarded by the Chairperson with the assistance of the Secretary to all
306 Committee members and the public in accordance with these bylaws and
307 the Open Records and Open Meetings law.

308 (bc) Meetings shall be run in accordance with Robert's Rules of Order.

309
310 3-2. *Emergency Meetings.* An emergency meeting may be called when ~~a~~an urgent matter cannot
311 ~~wait for~~ ~~a~~ regular meeting.

312 (a) Emergency meetings of the Committee may be called by the Chairperson
313 or upon written request of any two (2) Committee members.

314 (b) Notice of an emergency meeting shall be given at least forty-eight (48)
315 hours prior to the date set for any such meeting.

316 ~~(1) Notice may be communicated in person, by email, or other wire or~~
317 ~~wireless communication.~~

318 (1) Advance notice of an emergency meeting shall be provided to all
319 Committee members in writing, as well as by telephone call, and,

320 _____ along with the public, in accordance with the Open Records and
321 _____ Open Meetings law.

322 _____ (A) Written notice via email communication must be sent to
323 _____ the official Oneida Nation email address that was provided
324 _____ to all members to conduct business electronically on behalf
325 _____ of the Committee.

326 _____ (c) Within seventy-two (72) hours after an emergency meeting, the Committee
327 _____ shall provide the Nation's Secretary with notice of the emergency meeting,
328 _____ the reason for the emergency meeting, and an explanation as to why the
329 _____ ~~meeting~~ matter
330 could not wait until the next regular meeting.

331
332 3-3. *Joint Meetings.* Joint meetings with the Oneida Business Committee shall be held within
333 _____ the Oneida Business Committee Conference Room of the Norbert Hill
334 _____ Center or at an _____ another agreed upon
335 location on an as needed basis per the _____ approval of the
336 Oneida _____ Business Committee.

337 _____ (a) ~~Subject to approval from the Oneida Business Committee, joint meetings of~~
338 _____ ~~the Committee may be called by the Chairperson or upon written request of~~
339 _____ ~~any two (2) Committee members.~~

340 _____ (a) _____ (b) Notice of the joint meeting ~~location, agenda~~ agendas,
341 documents and minutes shall be _____
342 _____ ~~forwarded by the Committee Chairperson~~ provided, and the joint
343 meeting conducted, in accordance with ~~the assistance of the~~
344 _____ Committee Secretary.
345 _____ resolution BC-03-27-19-D titled, Oneida Business
346 Committee and Joint Meetings with Boards, Committees and Commissions
347 - Definitions and Impact, as may be amended from time-to-time hereafter.

348
349 3-4. *Quorum.* A quorum consists of no less than a majority of the current membership and
350 must include the Chairperson or Vice-Chairperson.
351 _____ (a) In lieu of the Chairperson and Vice-Chairperson, the Secretary may
352 _____ complete a quorum for meetings that are called pursuant to section 2-5(g)
353 _____ of these bylaws.

354
355 3-5. *Order of Business.* The regular meetings of the Committee shall follow the order of
356 business at set out herein:

- 357 (a) Call to Order
- 358 (b) Adopt the Agenda
- 359 (c) Approval of Minutes
- 360 (d) Old Business
- 361 (e) New Business
- 362 (f) Reports
- 363 (g) Other Business
- 364 (h) Executive Session
- 365 (i) Adjournment

366
367 ~~3-6. *Voting.* Voting shall be in accordance with a~~ 3-6. *Voting.* A majority
368 vote of the ~~quorum of~~ Committee members ~~present in~~
369 ~~attendance~~ at a ~~duly called~~ meeting. ~~of~~ an established
370 quorum is required for official action of the Committee.

371 (a) The Chairperson ~~shall~~, or Vice-Chairperson if presiding in lieu of the Chair-
372 person or Secretary if presiding under section 2-5(g) of these bylaws, shall
373 not be allowed to vote unless a tie needs to be broken.

374 (b) E-Polls are permissible and shall be conducted in accordance with the
375 Boards, Committees and Commissions law.

376 ~~(c~~ (1) The Vice-Chairperson will serve as the Chairperson's designee for
377 the ~~responsibility of conducting an e-poll~~
378 at the discretion of the Chairperson.

379

380 **Article IV. Expectations**

381 4-1. *Behavior of Members.* Committee members are expected to be respectful of others and to
382 arrive at meetings, as well as other Committee related activities, prepared
383 and on-time. The following behavior constitutes a violation of this
384 ~~Section~~ section of the bylaws:

385 (a) Missing three (3) unexcused consecutive Committee meetings without
386 sufficient justification.

387 (1) A Committee member will be deemed unexcused if he or she fails
388 ~~to provide~~ written notice of the intended absence to a Committee
389 ~~member~~ Officer at least thirty (30) minutes in advance of the meeting
390 that he or she will be absent from.

391 (b) Being found guilty of or substantiated for committing any of the following:

392 (1) Acts of fraud;

393 (2) Acts of theft; and/or

394 (3) Any other acts of violence, dishonesty or abuse of power.

395 (c) *Enforcement.* If a member violates this or any other ~~Section set forth in~~
396 Article IV section of these bylaws, he or she may be
397 subject to any of the following upon majority vote of the quorum
398 members present at a duly called Committee meeting: of an
399 established quorum:

400 (1) Removal of the member from a meeting or other gathering of the
401 Committee, which could affect the member's stipend eligibility;

402 (2) Committee action to discipline the member in accordance with any
403 law of the Nation governing sanctions and penalties for appointed
404 officials; and/or

405 (3) A recommendation for termination of the member's appointment to
406 the Oneida Business Committee in accordance with the Boards,
407 Committees and Commissions law and/or any other law of the
408 Nation governing the termination of appointed officials.

409

410 4-2. *Prohibition of Violence.* Intentionally violent acts committed by a member of the
411 Committee that inflicts, attempts to inflict, or threatens to inflict emotional

412 or bodily harm on another person, or damage to property, are strictly
413 prohibited.

414
415 4-3. *Drug and Alcohol Use.* The use of alcohol and prohibited drugs by a member of the
416 Committee when acting in his or her official capacity is strictly prohibited.

417
418 4-4. *Social Media.* Committee members shall comply with the Oneida Nation's Social Media
419 Policy; and their oath of office when using social media while acting on
420 behalf of or as a representative of the Committee.

421
422 4-5. *Conflict of Interest.* Committee members shall comply with all laws of the Nation
423 governing conflicts of interest.

424
425 **Article V. Stipends and Compensation**

426 5-1. *Stipends.* Dependent upon available budgeted funds, each Committee member shall -
427 be eligible for the following stipends as set forth in and subject to these
428 bylaws, the Boards, Committees _____ and Commissions law,
429 and resolution BC-05-08-19-B titled, Amending Resolution BC-09-26-18-D
430 titled Boards,

431 Committees and Commissions Law Stipends, as may further be amended
432 from time-to-time hereafter:

433 (a) One (1) meeting stipend per month of seventy five dollars (\$75), provided
434 _____ that:

- 435 (1) A quorum was established;
436 (2) The meeting of the established quorum last for a minimum of one
437 (1) hour; and
438 (3) The Committee member collecting the stipend was physically
439 present for the entire meeting of the established quorum in
440 accordance with the Boards, Committees and Commissions law.

441 (b) For attending a conference or training, a stipend of one hundred dollars
442 (\$100) for each day of attendance, _____ provided that:

- 443 (1) The Committee member attended a full day of training or was
444 present at the conference for a full day; and
445 (2) The Committee member's attendance at the conference or training
446 was required by law, bylawbylaws or resolution.

447 (c) StipendsA stipend for attending a Judiciary hearingshearing if the
448 Committee membermember's attendance at the
449 hearing is _____ specifically subpoenaedrequired by official subpoena.

450 (d) A stipend of seventy five dollars (\$75) for attending a duly called joint
451 _____ meeting between the Committee _____ and the Oneida
452 Business _____ Committee,
453 _____ provided that:

- 454 (1) A quorum was established by both the Committee and the Oneida
455 Business Committee;
456 (2) The joint meeting of established quorums lasted for at least one (1)
457 _____ hour; and

458 (3) The Committee member collecting the stipend was physically
459 present for the entire joint meeting.

460 (e) Members will be required to fill out a time-sheet for stipend requests. —

461 ~~(1) Stipend requests must be signed by the Committee Chairperson or~~
462 ~~Chairperson's designee.~~

463
464 5-2. *Compensation.* A Committee member shall be compensated ~~twenty five dollars (\$25) per~~
465 ~~hour~~ on an hourly basis consistent with resolution BC-
466 05-08-19-B titled, Amending Resolution BC-09-26-18- D Boards,
467 Committees and Commissions Law Stipends, as may further be
468 amended from time-to-time hereafter, for services he or she provides during _____
469 _____ each Pow-wow event, ~~not to~~ ~~exceed two hundred dollars~~
470 ~~(\$200) per day and~~ contingent upon available _____ budgeted
471 funds.

472 (a) Services provided “during each Pow-wow event” shall include:

473 (1) Services relating to setting up ~~for~~ the Pow-wow event grounds and/or
474 location;

475 (2) Services provided on the day(s) of the Pow-wow event; and

476 (3) Services relating to taking down/cleaning up ~~after~~ the Pow-wow
477 event grounds and/or location.

478 (b) Committee members shall keep track of their hours of service provided
479 during a Pow-wow event on a timesheet. _____

480 (c) Besides the travel, per diem and business expense reimbursement
481 authorized by the Boards, Committees and Commissions law and as further
482 authorized herein, Committee members shall not be eligible to receive any
483 other form of compensation for the duties/activities they perform on behalf
484 of the Committee.

487 **Article VI. Records and Reporting**

488
489 6-1. *Agenda Items.* Agenda items shall be maintained in a format provided by the Oneida
490 Business Committee Support Office.

491
492 6-2. *Minutes.* Minutes shall be typed in a format provided by the Oneida Business
493 Committee Support Office and as agreed upon by the Committee to generate
494 the most informative record of the Committee’s meeting and shall include
495 a summary of the action taken by the Committee during meetings.

496 (a) All minutes shall be submitted to the Oneida Business Committee Support
497 Office within two (2) business days of the meeting date.

498
499 6-3. *Attachments.* ~~Attachments~~ Any handouts, reports or documents shall be attached to the
500 minutes and _____ agenda from the meeting in which they
501 _____ were presented ~~shall be~~ and kept together in _____ an electronic
502 filing system.

503

504 6-4. *Oneida Business Committee Liaison.* The Committee shall meet with the Oneida Business
 505 Committee member who is its designated liaison as needed, the frequency
 506 and method of communication to be agreed upon between the liaison and
 507 the Committee, but no less than that required in any law or policy on
 508 reporting developed by the Oneida Business Committee or Oneida General
 509 Tribal Council.

- 510 (a) The Committee shall check in with its liaison on a quarterly basis.
- 511 (b) Purpose of the liaison relationship is to uphold the ability of the liaison to
- 512 act as support to the Committee.

513
 514 6-5. *Audio Recordings.* All Committee meetings shall be audio recorded.

- 515 (a) The Oneida Business Committee Support Office shall supply a recording
- 516 device to the Committee in advance of each meeting.
- 517 (1) The Committee shall return, or the Oneida Business Committee
- 518 Support Office shall pick up, the recording device within two (2)
- 519 business days of each meeting.
- 520 (2) Audio recordings shall be maintained by the Oneida Business
- 521 Committee Support Office.
- 522 (b) *Exception.* Audio recordings of executive session portions of a meeting
- 523 shall not be required.

524 **Article VII. Amendments**

525
 526 7-1. *Amendments.* Amendments shall be made to these bylaws at a regular meeting of the
 527 Committee, provided that written notice of the proposed amendments is
 528 made at a prior regular meeting.

- 529 (a) The Committee may amend these bylaws by the affirmative vote of a
- 530 majority of the ~~quorum present~~ members in attendance at ~~the~~ Committee
- 531 meeting of an established quorum.
- 532 (b) Amendments to these bylaws shall conform to the requirements of the
- 533 Boards, Committees and Commissions law and any other policy of the
- 534 Nation.
- 535 (c) Amendments to these bylaws shall be approved by the Oneida Business
- 536 Committee before implementation.
- 537 (d) The Committee shall review these bylaws on an annual basis.

538
 539 [SIGNATURE BLOCK NEEDS TO BE ADDED]

540



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office Staff Attorney *CNS*
DATE: September 18, 2019
RE: Certification of Judiciary law Rule No. 1 – Oneida Trial Court Rules

The Legislative Reference Office has reviewed the certification packet provided by the Oneida Trial Court for the Judiciary law Rule No. 1 – Oneida Trial Court Rules (“the Rule”). This Rule supplements the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court.

The Rule would become effective upon adoption by the Oneida Business Committee.

Administrative Record

The certification packet contains all documentation required by the Administrative Rulemaking law for a complete administrative record. The certification packet contains:

- Memorandum from the Honorable Denice E. Beans, containing the Rule’s procedural timeline;
- Final draft of the Rule;
- Summary Report;
- Statement of Effect;
- Financial analyses showing no financial impact from the Oneida Judiciary;
- Memorandum reviewing and considering the public comments that were submitted on the Rule;
- Public Meeting Notices as it appeared in the Kalihwisaks; and
- An additional draft of the Rule considered at the public meeting was not provided because no changes were made from the public meeting Rule to the final draft of the Rule.

Procedural Requirements

The certification packet demonstrates that the promulgation of the rule complies with the procedural requirements contained in the Administrative Rulemaking law.

In accordance with the Administrative Rulemaking law:

- A public meeting notice for the Rule was published in the Kalihwisaks on July 3, 2019;
- A public meeting for the Rule was held on July 23, 2019;
- The public comment period was held open until July 30, 2019;
- Written comments received during the public meeting comment period were reviewed and considered on September 4, 2019;

- The Oneida Family Court Judges approved the Rule on September 4, 2019.

Rulemaking Authority

The Judiciary law delegates authority to the Judiciary to create rules of pleading, practice, and procedure to regulate all hearings conducted before it. [8 O.C. 801.10-1]. The Rule did not exceed the rulemaking authority granted under the law for which the Rule is being promulgated.

Conclusion

Promulgation of the Judiciary law Rule No. 1 – Oneida Trial Court Rules complies with all requirements of the Administrative Rulemaking law.

MEMORANDUM

TO: Legislative Operating Committee (LOC)
FROM: Hon. Denice E. Beans, Trial Court
DATE: September 4, 2019
RE: Trial Court Rules

This memorandum is being provided by the Trial Court to outline the dates that the procedural timelines outlined in the Administrative Rulemaking law were complied with. Those dates are as follows:

- Notice published in Kalihwisaks: July 3, 2019
- Notice published on the Oneida Register: June 12, 2019.
- Public meeting: July 23, 2019.
- Close of public comment period: July 30, 2019.

The supporting documents submitted with this memorandum include:

- Draft of the rule.
- Summary Report.
- Statement of Effect.
- Financial Analysis.
- Memorandum addressing public comments.
- Public meeting notice.

We are requesting that the proposed Trial Court Rules become a rule under 8 O.C. Chapter 803.

We are further requesting that the effective date of the rule be the date the Oneida Business Committee adopts the rule pursuant to section 106.8-2 of the Administrative Rulemaking law.



Title 8. Judicial System – Chapter 801
 Judiciary
 Rule #1 – ONEIDA TRIAL COURT RULES

1.1 Purpose	1.11 Contempt
1.2 Adoption, Amendment Repeal	1.12 Cases with no action for 60 days
1.3 Appearances	1.13 Witnesses
1.4 Rules of Decorum	1.14 Garnishments
1.5 Default Judgment	1.15 Closed Hearings/Records
1.6 Continuance	1.16 Temporary Restraining Order
1.7 Participation Accommodations	1.17 Citation Hearings
1.8 Scheduling a Hearing	1.18 Probate Hearings
1.9 Ex Parte Communication	1.19 Judge's Signature Defined
1.10 Peacemaking and Mediation	1.20 Notice of Appearance

1.1 Purpose

1.1-1. *Purpose.* The purpose of these rules is to supplement the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court.

1.2 Adoption, Amendment Repeal

1.2-1. These rules were created by the Trial Court and approved by the Oneida Business Committee in accordance with 8 O.C. 801.10-1 and 1 O.C. Chapter 106.

1.2-2. These rules may be amended or repealed pursuant to the procedures set out in the Judiciary and Administrative Rulemaking laws.

1.2-3. Should a provision of these rules or the application thereof to any person or circumstance be held as invalid, such invalidity shall not affect other provisions of these rules which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of these rules and a provision of another rule, the provisions of these rules shall control.

1.3 Appearances

1.3-1. When at all possible, the parties should appear in person.

1.3-2. In circumstances where it is difficult or impossible for a party to appear in person, the party may contact the Court Clerk to request an appearance by telephone or videoconference.

- (a) It is the responsibility of the party to provide the Trial Court with a contact number where the party may be reached for the telephone or videoconference appearance.
- (b) It is the responsibility of the party appearing by telephone or videoconference to be available at the scheduled time of the hearing.

1.4 Rules of Decorum

1.4-1. This section shall apply to all persons entering the courtroom.

- (a) All electronic devices shall be turned off or silenced as to not disrupt court proceedings.
 - (1) If any electronic devices are heard or seen, that person will be identified and may be removed from the courtroom by the Security Officer or Oneida Police Officer.
 - (2) Removal may be for the remainder of the hearing.
- (b) All persons are prohibited from using an electronic device to take pictures, take videos, text, or make sound recordings without permission from the Judge.
- (c) Unless otherwise approved by the Judge, all persons shall remove their sunglasses, hats or headwear, except those worn for religious or medical purposes.
- (d) No food or drink shall be permitted in the courtroom without permission from the Judge.
- (e) All persons shall identify themselves when asked by court security officers, law enforcement officers, and Oneida Judiciary staff.
- (f) Except for on-duty law enforcement officers and court security officers, no weapon of any type shall be taken, carried, or introduced into the Judiciary. All persons entering the Judiciary may be searched and examined by electronic detection equipment.
- (g) Court security officers, law enforcement officers, and Oneida Judiciary staff are authorized to open and inspect any item carried into the Judiciary.
- (h) Courtroom Capacity is limited to seating availability; standing during hearings is not allowed.
- (i) Disruptive children shall remain in the lobby and shall be accompanied by an adult.
 - (1) Court staff, including security, will not provide care for children during court proceedings.
- (j) No contact or communication is allowed between those in the gallery and the parties.
- (k) Those in the gallery shall not talk or whisper while court is in session. Absolute silence is required; any noise violation will result in removal from the courtroom.
- (l) Case related photos or expressions on clothing or any other items the Trial Court deems as a distraction to court proceedings will not be allowed.
- (m) No signs or banners are allowed in the courtroom. There shall be no demonstrations of any kind in the courtroom while court is in session.
- (n) Any other distracting or disorderly conduct not specifically addressed herein, may result in removal from the courtroom by security officers or law enforcement officers.
 - (1) Individuals may also be removed from the courthouse for attempting to listen in or eavesdrop on a closed Court proceeding.
- (o) All persons shall rise when the judge enters and leaves the courtroom.

1.4-2. This section shall apply to all parties, counsel and witnesses.

- (a) Parties, counsel and witnesses shall refer to the judge as “Your Honor.”
- (b) All parties, counsel, and witnesses shall refrain from interrupting or talking over one another.
- (c) Parties and/or counsel shall direct all concerns and remarks to the Court, not to the opposing party.

1.5 Default Judgment

1.5-1. If a party fails to appear at any Trial Court matter, the Court shall confirm and be satisfied that proper notice was provided.

1.5-2. If the Trial Court finds that proper notice was not provided, the matter shall be rescheduled. The Trial Court may make orders or give instructions on further service or notice efforts to occur before the rescheduled hearing.

1.5-3. If the Trial Court finds that proper notice was provided, the Trial Court may enter judgment against the party that failed to appear. The Trial Court, in its discretion, may require a party to produce sufficient evidence to support a judgment against the other party.

1.6 Continuance

1.6-1. A continuance means a hearing or other scheduled event is postponed to a later date.

1.6-2. Continuances shall only be granted by the Trial Court based on a written request of a party, a stipulation of the parties, or on the Trial Court's own motion.

1.6-3. A request for a continuance shall be decided on a case-by-case basis considering the circumstances present at the time of the request. Examples of acceptable reasons for a continuance may include, but are not limited to, the following:

- (a) Failure of a party to receive proper or sufficient notice;
- (b) Emergency involving the Judge, Court staff, and/or parties;
- (c) Unavailability of the courtroom;
- (d) A one-time request to obtain counsel;
- (e) To allow more time for settlement negotiations or peacemaking; and
- (f) Absence or unavailability of a material witness.

1.6-4. The Trial Court may impose conditions upon the granting of a continuance, such as requiring a party to provide documentation regarding an illness.

1.7 Participation Accommodations

1.7-1. In circumstances where a party would be restricted from participating in the court procedures, the person may request reasonable accommodations.

- (a) Requests for equipment shall be submitted at least two (2) weeks before a hearing.
- (b) All other reasonable accommodation requests shall be submitted at least one week before a hearing.

1.8 Scheduling a Hearing

1.8-1. The Court Clerk may contact the parties by any of the following communication methods:

- (a) Phone
- (b) Electronic mail
 - (1) If one party does not have a valid email address, the Court Clerk will look to other communication options.

1.8-2. The hearing may be done telephonically with the parties.

1.9 Ex Parte Communication

1.9-1. Ex parte communication is communication, either verbally or in writing, between a judge and a party about a pending case, without the other party present. Communication includes, but

is not limited to, the following: pleadings, letters, email, phone calls, or in-person conversations whether in or out of court.

1.9-2. Ex parte communication is forbidden, subject to the following exceptions:

- (a) When a party fails to appear at a court hearing where both parties have been properly noticed, the Trial Court may speak on the record with the party who appears.
- (b) When a party believes that sharing the communication with the other party would place the party or children in danger of physical harm.

1.10 Peacemaking and Mediation

1.10-1. This section governs the application process for prospective peacemakers/mediators from outside of the Oneida Judiciary.

- (a) Applicants shall submit a completed application to serve as Peacemaker/Mediator to the Court Administrator.
- (b) A background check will be initiated through the Backgrounds Department at the Oneida Human Resources Department.
 - (1) Applicants that pass the background check may be scheduled an interview.
 - (2) Should a completed background check for an applicant fail to meet the minimum qualifications, a notice of denial of application is sent certified mail to the applicant.
- (c) The Judges involved with the interview will confer to discuss whether the applicant will be approved.
 - (1) If approved, the Court Administrator will process the applicant in the Purchasing Management system as an active vendor.
 - (2) If not approved, then Chief Trial Judge will send a letter stating the reasons for the denial.
- (d) Records.
 - (1) A complete record of all applications will be maintained by the Court Administrator.

1.10-2. This section governs the appointment of peacemakers/mediators.

- (a) Before being utilized by the Trial Court, a peacemaker/mediator must demonstrate an understanding of the role of the peacemaker/mediator.
 - (1) Such understanding may be demonstrated by completing peacemaking/mediation training, performing prior peacemaking/mediation work for the Trial Court, being recognized as a certified peacemaker/mediator by the Cultural Heritage Department and/or another jurisdiction, or such other means determined to be appropriate by the Trial Court.
- (b) The Trial Court may refer the parties to peacemaking or mediation in accordance with 8 O.C. chapter 801.6-2.
- (c) No person who is an interested party in a proceeding, appears as counsel in a proceeding on behalf of any party, or is an immediate relative or representative of an interested party may be appointed peacemaker/mediator in that proceeding without the consent of the parties.
- (d) The Trial Court shall have the duty of administering the peacemaker/mediator list for Trial Court cases. The Trial Court shall select a peacemaker/mediator from the list.

1.10-3. This section governs the conduct and duties of peacemakers/mediators.

- (a) A peacemaker/mediator shall maintain independence, objectivity, and the appearance of fairness in dealings with parties.
- (b) A peacemaker/mediator shall avoid any actual or apparent conflict of interest or impropriety in the performance of peacemaking/mediating responsibilities.
- (c) A peacemaker/mediator shall avoid self-dealing or association from which a peacemaker/mediator might directly or indirectly benefit in cases they are appointed, other than for compensation as peacemaker/mediator.
- (d) A peacemaker/mediator shall act immediately to resolve any potential conflict or impropriety. A peacemaker/mediator shall advise the Trial Court and the parties of the action taken, resign from the case, or seek Trial Court direction as may be necessary to resolve the conflict or impropriety.
- (e) A peacemaker/mediator shall not accept or maintain appointment if the performance of the duties of peacemaker/mediator may be materially limited by the peacemaker's/mediator's responsibilities to another client or a third person, or by the peacemaker's/mediator's own interests.
- (f) A peacemaker/mediator shall make no disclosures about the case except in documents to the Trial Court or as necessary to perform the duties of a peacemaker/mediator. A peacemaker/mediator shall keep confidential the contact information of the parties where there are allegations of domestic violence or a safety risk to a party or child.
- (g) A peacemaker/mediator may be provided copies of relevant pleadings, documents, and reports from the Trial Court file.
- (h) Unless otherwise approved by the Trial Court, a peacemaker/mediator shall provide the Trial Court with a written update within three (3) business days of the peacemaking session.

1.10-4. A peacemaker/mediator shall maintain the ethical principles of the rules of conduct set forth in these rules and is subject to discipline by the Trial Court.

- (a) If the Trial Court receives a complaint regarding the conduct of a peacemaker/mediator, the Trial Court shall do one of the following:
 - (1) The Trial Court may hold a hearing and issue a decision regarding the complaint against the peacemaker/mediator after all parties have been given an opportunity to be heard; or
 - (2) The Trial Court may, in its discretion or at the request of the parties, resolve the complaint against the peacemaker/mediator through receipt of briefs and issuance of a written decision rather than holding a hearing; or
 - (3) The Trial Court may screen out and take no action on complaints that are frivolous or repetitive. The Trial Court shall communicate in writing any such decision with the parties.
 - (4) Any other action that the Trial Court deems appropriate.
 - (5) The Trial Court may issue an order for discipline which may include, but is not limited to: additional training requirements, removal from a case, or removal from the peacemaker/mediator list.

1.10-5. A peacemaker/mediator shall be compensated at a rate that the Trial Court determines is reasonable.

- (a) A peacemaker/mediator shall keep accurate records of the time spent (to the tenth of an hour) and file an itemized statement and accounting with the Court Administrator.

- (b) There shall be no compensation paid for peacemaking/mediation done by a full-time Judge.
- (c) Private mediators may be used in accordance with 8 O.C. chapter 801.6-4(a).

1.11 Contempt

1.11-1. Procedure for direct contempt:

- (a) Depending on the severity of the contemptuous action or behavior, a warning of contempt which may include a fine up to \$1,000 for each individual act, may be given to a person before a finding of contempt.
- (b) Unless a warning is given, immediately after a contemptuous action or behavior, the Trial Court shall find such person in contempt and state the amount of the fine.
 - (1) Upon a finding of contempt, the Trial Court shall include the fine amount, up to \$1,000.00 per act of contempt, in accordance with Oneida Judiciary Rules of Civil Procedure section 803.26-2.
- (c) A recess may be taken after the finding of contempt.
- (d) A written order for direct contempt shall be written in accordance with 803.31-1 (f).

1.11-2. Procedure for indirect contempt:

- (a) The Trial Court may, in its discretion or on motion by a party, resolve issues of indirect contempt through receipt and deliberation of briefs rather than a hearing.
- (b) The Trial Court may schedule a hearing within thirty (30) days of an alleged contemptuous action or behavior.
 - (1) The hearing shall be called to order in accordance with 803.38-1(a)
 - (2) The party alleging contempt has occurred will present its argument for contempt.
 - (3) The party who allegedly committed contempt will present its argument against contempt or may admit to contempt.
 - (4) Both parties shall have the opportunity for a rebuttal.
 - (5) In the event the Trial Court is alleging indirect contempt against a party, the Trial Court shall schedule a hearing within thirty (30) days of the alleged contemptuous action or behavior.
 - (A) The hearing shall be called to order in accordance with 803.38-1(a).
 - (B) The Trial Court shall describe the alleged contemptuous action or behavior.
 - (C) The party who allegedly committed the contempt will present its argument against contempt or may admit to contempt.
 - i. The party may purge a contempt charge by complying with the Trial Court order in accordance with 803.26-2.
 - (D) The non-contemptuous party may present its argument, if any, for or against contempt.
 - (E) The party who allegedly committed the contempt may offer a rebuttal.
 - (F) After the parties have been heard, the Trial Court may allow a person to comply with the Trial Court order in accordance with 803.26-3(b)(1).

1.12 Cases with no action for 60 days

1.12-1. Cases with no action for 60 days shall be scheduled for a status hearing.

1.13 Witnesses

1.13-1. Witnesses shall be examined from the counsel table. Persons examining witnesses may either stand or remain seated while examining a witness from counsel table. In no case shall a witness be crowded during examination.

1.13-2. Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

1.13-3. Witnesses shall refrain from interrupting or talking over others.

1.13-4. Subject to the exceptions listed below, children shall not be present in the courtroom during court proceedings or participate in proceedings as a witness.

1.13-5. A child may participate in a proceeding upon a finding by the Trial Court that it will not be harmful to the child or disruptive to the Trial Court for the child to participate.

1.13-6. The Judge shall retain the discretion on determining whether testifying is in the best interest of a child. In the Rules of Evidence 804.9 states that every person is competent to be a witness. However, the following guidelines are established for child witnesses, so long as participation is in the child's best interest:

- (a) Eight (8) years of age or younger = strongly discouraged.
- (b) Nine (9) to twelve (12) years of age = possible but only when all other methods of obtaining evidence have failed.
- (c) Thirteen (13) years of age or older = permitted but with caution after consultation with the guardian ad litem, if any.

1.14 Garnishments

1.14-1. The Trial Court shall conduct the proceeding on the record informally, allowing each party time to address the Court.

1.14-2. Garnishment hearings will be held the second and fourth Wednesday of each month at the Oneida Judiciary.

1.14-3. The procedure for the garnishment hearing shall be as follows:

- (a) The Court Clerk will call the hearing to Order stating:
 - (1) The full name of the Court
 - (2) The name of the presiding Judge
 - (3) Case number
 - (4) A statement of authority and jurisdiction
 - (5) Creditor and Debtor state full name/ Debtor state current address
- (b) The Trial Court checks for proper notice
- (c) The Trial Court reads the purpose of the hearing
- (d) The Trial Court will read the following: judgment, amount, where the judgment was ordered, and case number.
- (e) The Trial Court will summarize the total judgment amount, consisting of judgment, post judgment interest, and filing fee.
- (f) The Trial Court will explain the garnishment rule; i.e. determination of maximum amount eligible to be garnished each week.

- (1) Debtor's gross income divided by 52 weeks = Gross weekly income (GWI).
- (2) Subtract 30% from GWI, taking into consideration of taxes & other mandated deductions = Disposable Wage.
- (3) The maximum amount subject to garnishment is twenty percent (20%) of debtor's disposable wage per pay period.
- (g) The Trial Court will hear how the creditor would like to proceed.
- (h) The Trial Court will hear how the debtor would like to proceed.
- (i) If the parties are unable to reach an agreed amount, the Judge will determine an amount, not exceeding the maximum amount identified by law.
- (j) The Judge will summarize the order for garnishment, default judgment or dismissal.
- (k) The Judiciary shall provide the Accounting Department with a copy of the garnishment order after the time frame for appeals have been exhausted.
- (l) A copy of the order will be mailed to all parties.

1.15 Closed Hearings/Records

1.15-1. All hearings involving a juvenile shall be closed and the Records sealed.

1.15-2. At the request of any party or on its own motion, the Trial Court may close a hearing where the safety of a party, witness or other individual may be in jeopardy or for good cause in compelling circumstances. All Records from a closed hearing shall remain sealed.

1.16 Temporary Restraining Order

1.16-1. When a Temporary Restraining Order (TRO) is issued without notice, a hearing shall be held within three (3) business days of such issuance.

- (a) The hearing shall be called to order in accordance with 803.38-1(a)
- (b) The Petitioner's case presentation
- (c) The Respondent's case presentation
- (d) Petitioner's rebuttal
- (e) Respondent's rebuttal

1.16-2. If a party has violated a TRO, the non-violating party may file a request with the Trial Court to find the other party in contempt.

1.17 Citation Hearings

1.17-1. This section shall govern the procedures for citation hearings.

- (a) Citation pre-hearings will be held the third Thursday of each month at the Oneida Judiciary. The citation will include the scheduled pre-hearing date at least 30 days after the citation is issued.
- (b) If a Defendant does not contest the violation and appearance is not mandatory, the Defendant may pay the fine in full before the pre-hearing day and the Court cost/fees will be waived.
- (c) The procedure for the pre-hearing shall be as follows:
 - (1) Security or Court staff will give a copy of the Rights to the Defendant
 - (2) The Court Clerk will call the hearing to Order stating:
 - (A) The full name of the Court.
 - (B) The name of the presiding Judge.
 - (C) The Case number.

- (D) A statement of authority and jurisdiction.
- (E) Plaintiff and Defendant state full name/ Defendant state current address.
- (3) The Trial Court checks for proper notice.
- (4) The Trial Court reads the purpose of the hearing.
- (5) The Trial Court asks if Defendant understands the rights and if there are questions.
- (6) The Trial Court will read the relevant violation and possible fines and/or penalties to the Defendant.
- (7) The Trial Court explains the plea options: admit or contest
- (8) The Defendant will enter a plea of admit or contest to the violation unless the Defendant requests time to hire an attorney/advocate. The Defendant will be given a reasonable amount of time, not to exceed 14 calendar days, to hire an attorney/advocate. The attorney/advocate must be admitted to practice before the Oneida Judiciary.
- (9) If a contested plea is entered the Trial Court will schedule a trial 45 days out. A shorter time may be scheduled for the trial at the judge's discretion. A settlement conference may be scheduled with the Plaintiff's attorney any time before the contested hearing.
- (10) If an admission is entered, the Defendant may pay the fine or meet with the Plaintiff's attorney to stipulate to a payment agreement.
- (11) Citations issued to minor Defendants will be heard last. All hearings with minor Defendants shall be closed hearings.

1.18 Probate Hearings

1.18-1. If the Trial Court Rules or other Laws of the Oneida Nation regarding probate lack definition, procedure, or legal precedent in a probate matter, the Trial Court shall use Wisconsin's Probate Code and its related chapters for guidance in accordance with 8 O.C. chapter 801.2-6.

- (a) This section, 1.18, will not take effect until probate administration rules are promulgated by Land Management and the Oneida Land Commission and adopted by the Oneida Business Committee in accordance with Resolution BC-05-09-18-A.

1.18-2. The Judiciary shall hear and administer disputed probate estates, probate estates requiring appointment of a guardian ad litem and probate estates in which Land Management seeks appointment as a personal representative.

1.18-3. The Trial Court shall conduct the proceeding on the record informally, allowing each person to present arguments and proofs and to examine witnesses to the extent reasonably required for full and true disclosure of the facts.

- (a) The Trial Court may admit any written, oral, documentary, or demonstrative evidence that is:
 - (1) Relevant, reliable, and probative;
 - (2) Not privileged under the Oneida Nation's Laws; and
 - (3) Not unduly repetitious or cumulative.
- (b) The Trial Court may exclude evidence if it overly confuses the issues or causes burdensome delay.

- (c) The Trial Court may consider the fact that evidence is hearsay when determining its probative value.
 - (d) The Trial Court will determine the weight given to any evidence admitted.
 - (e) Any party objecting to the admission or exclusion of evidence must concisely state the grounds. A ruling on every objection must appear in the record.
- 1.18-4. The procedure for the probate hearing shall be as follows:
- (a) All persons present for the hearing shall sign in on the sheet provided inside the courtroom. All persons signed in shall have an opportunity to address the Trial Court, as described below, in the order in which they signed in.
 - (b) The Court Clerk will call the hearing to Order stating:
 - (1) The full name of the Court
 - (2) The name of the presiding Judge
 - (3) The case number
 - (4) A statement of authority and jurisdiction
 - (c) The Trial Court reads the purpose of the hearing.
 - (d) If a personal representative has not been appointed, the Trial Court shall appoint a personal representative.
 - (1) If a personal representative has been appointed, the Trial Court shall hear objections to the appointment, if any, from any party who has an interest in the estate.
 - (2) The Trial Court shall either affirm the appointment or appoint another person.
 - (3) The Trial Court may require the personal representative to post a bond—a kind of insurance policy that protects the estate from losses the personal representative may cause it, up to a certain dollar amount depending on the size of the estate.
 - (4) The personal representative shall identify all the assets of the person who died, manage those assets throughout the probate process, pay any outstanding debts, taxes or estate expenses, make any distributions that are required by Tribal or state law, and distribute any remaining assets to the decedent’s heirs or designees.
 - A. The personal representative shall provide all the above information to the Trial Court.
 - (5) Funeral costs have priority in settling a probate case. Then come taxing authorities, secured creditors and unsecured creditors who have made a claim. Finally, any remaining assets are distributed to the beneficiaries.
 - (e) Legal Notices:
 - (1) The Trial Court shall ensure that a formal legal notice was sent to beneficiaries named in the will, if any, and to heirs under state law (the people who inherit if there is no valid will).
 - (2) The Trial Court shall ensure that notices were sent to known creditors, and a published legal notice in the Newspaper of the Oneida Nation as well as any other local newspaper in the area where the decedent resided or last known address or where the property is located to alert other creditors.
 - A. The first publication must be published within fifteen (15) days of filing with the Trial Court. This notice shall be published at least two

- (2) times within a thirty (30) day period. The notice shall include the deadline for creditors to file a claim. The deadline shall be three (3) calendar months from the date of the first publication.
- B. Creditors must file any claims against the estate within three (3) months of notification. Once the three (3) month period has passed, creditors are prohibited from making claims against the estate.
- (f) If there is a will, it must be proven valid. A will may be proven valid by the statement from one or more of the witnesses, in one of these forms:
- (1) a notarized statement, which witnesses signed when they witnessed the will,
 - (2) a sworn statement signed by a witness now,
 - (3) court testimony from a witness, or
 - (4) any other method the Trial Court deems valid.
- (g) The persons signed in may address the Trial Court.
- (h) A copy of the order will be mailed to all parties and those with an interest in the estate.

1.19 Judge's Signature Defined

1.19-1. A Trial Court Judge's signature shall mean:

- (a) The judge's name hand written by that judge,
- (b) The judge's name signed by electronic means, or
- (c) The judge's signature stamp if the following conditions are met:
 - (1) An emergency exists, or the Trial Court Judge is unavailable to personally sign his or her name.
 - (2) The use of the signature stamp has been pre-approved and authorized by the Trial Court Judge.
 - (3) Authorization date and time is noted below the signature line.

1.20 Notice of Appearance

1.20-1. The attorney or advocate whose name, address, and telephone number appear on a document presented for filing is considered counsel of record, and a separate notice of appearance need not be filed.

- (a) If the name of more than one attorney or advocate is shown on the cover of the document, the attorney who is counsel of record shall be clearly identified.

1.20-2. An attorney or advocate representing a party who will not be filing a document shall enter a separate notice of appearance as counsel of record indicating the name of the party represented and the case number, if known.

1.20-3. A separate notice of appearance shall also be entered whenever an attorney or advocate is substituted as counsel of record in a case.

1.20-4. An attorney or advocate may not withdraw from a case where a motion is pending, or a hearing has been scheduled except upon a motion and order of the Trial Court.

**Summary Report for Trial Court Rules
September 4, 2019**

Original effective date: N/A

Amendment effective date: N/A

Name of Rule: Trial Court Rules

Name of law being interpreted: Oneida Judiciary Rules of Civil Procedure

Rule Number: 1

Other Laws or Rules that may be affected: N/A

Summary of the proposed rule: The purpose of these rules is to supplement the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court.

Statement of Effect: Obtained after requesting from the Legislative Reference Office.

Financial Analysis: See Attached.

Note: *In addition- the agency must send a written request to each entity which may be affected by the rule- asking that they provide information about how the rule would financially affect them. The agency must include each entity's response in the financial analysis. If the agency does not receive a response within 10 business days after the request is made, the financial analysis can note which entities did not provide a response.*



Statement of Effect

Judiciary Law Rule No. 1 – Oneida Trial Court Rules

Summary

The Judiciary law Rule No. 1 – Oneida Trial Court Rules supplements the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court.

Submitted by: Clorissa N. Santiago, Staff Attorney, Legislative Reference Office

Date: June 11, 2019

Analysis by the Legislative Reference Office

The Judiciary law delegates authority to the Judiciary to create rules of pleading, practice, and procedure to regulate all hearings conducted before it. [8 O.C. 801.10-1].

Judiciary law Rule No. 1 – Trial Court Rules (“the Rule”) supplements the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court. The Rule provides provisions regarding the following:

- Appearances [see Rule 1.3];
- Rules of Decorum [see Rule 1.4];
- Default judgment [see Rule 1.5];
- Continuances [see Rule 1.6];
- Participation accommodations [see Rule 1.7];
- Scheduling a hearing [see Rule 1.8];
- Ex-parte communication [see Rule 1.9];
- Peacemaking and mediation [see Rule 1.10];
- Contempt [see Rule 1.11];
- Cases with no action for sixty (60) days [see Rule 1.12];
- Witnesses [see Rule 1.13];
- Garnishments [see Rule 1.14];
- Closed hearings/records [see Rule 1.15];
- Temporary restraining orders [see Rule 1.16];
- Citation hearings [see Rule 1.17];
- Probate hearings [see Rule 1.18];
- Judge’s signature defined [see Rule 1.19]; and
- Notice of appearance [see Rule 1.20].

Section 1.3 of the Rule provides for the appearances of parties at hearings. The Rule requires that all parties appear in person for all hearings, except in circumstances where it is difficult or impossible for a party to appear in person and the party contacts the Court Clerk to request an appearance by telephone or videoconference. [see Rule 1.3-1, 1.3-2]. The requirement for a party to appear before the Court at any scheduled hearing or proceeding is already provided for in the Oneida Judiciary Rules of Civil Procedure. [8 O.C. 803.29-1]. Additionally, the Oneida Judiciary

Rules of Civil Procedure provides that the Court may allow a party to appear by telephone if requested in writing and submitted at least seven (7) days before a hearing or proceeding. [8 O.C. 803.29-1(c)]. Although the Rule does not specifically require the request to appear by telephone to be submitted in writing at least seven (7) days before a hearing, these provisions are still required by the Oneida Judiciary Rules of Civil Procedure.

Section 1.4-1(f) of the Rule provides that no person, except for on-duty law enforcement officers and court security officers, shall take, carry, or introduce into the Judiciary a weapon of any type. This provision of the Rule is consistent with Oneida Business Committee resolution BC-10-26-11-C which prohibits a person from carrying a weapon, whether in the open or concealed, on Tribal public property, including in any Tribal building, gaming or retail business, facility, construction site, vehicle or at any Tribally sponsored event, except for individuals who are actually engaged in the performance of the duties of their employment requiring them to carry a weapon, including sworn law enforcement officers or vendors who transport and/or distribute cash.

Section 1.5 of the Rule discusses default judgments. Default judgments have been addressed by the Oneida Judiciary Rules of Civil Procedure. The Oneida Judiciary Rules of Civil Procedure provides that if a party against whom a judgment for relief is sought has failed to appear, plead or otherwise defend as required in this Law or elsewhere, a default judgment may be granted by the Court upon the receipt of whatever evidence is deemed necessary to establish the claim. [8 O.C. 803.29-2]. Additionally, the Oneida Judiciary Rules of Civil Procedure provides that when a party who has filed a claim fails to appear, plead, or prosecute said claim as provided in this Law or elsewhere, a dismissal, which is treated as a default, may be granted by the Court, on its own or on a party's motion, dismissing the claim. [8 O.C. 803.29-3]. The Rule provides additional requirements for a default judgment by requiring that the Court verify that proper notice was provided prior to finding the party in default. [see Rule 1.5-1]. The Rule provides that if proper notice was not provided, the matter may be dismissed or rescheduled, and if the matter is rescheduled, the Court may make orders or give instructions regarding notice that shall occur prior to the rescheduled hearing. [see Rule 1.5-2]. The Rule also provides that if proper notice was provided, the Trial Court may enter judgment against the party that failed to appear, but may also require a party to produce sufficient evidence to support a judgment against the other party. [see Rule 1.5-3].

Section 1.6 of the Rule provides information on continuances. The Oneida Judiciary Rules of Civil Procedure only discusses continuances in regard to amending pleadings based on an objection at trial and provides that the Court may grant a continuance to enable the objecting party to provide evidence to satisfy the Court that the evidence would prejudice their action or defense on the merits. [8 O.C. 803.11-2(a)]. Section 1.6 of the Rule provides when the Court can grant a continuance, acceptable reasons for a continuance, and enables the Court to impose conditions upon the granting of a continuance.

Section 1.8 of the Rule provides information on scheduling a hearing. Section 1.8-1 of the Rule provides how the Court Clerk may contact the parties to schedule a hearing. Section 1.8-2 of the Rule then provides that the hearing can then be done telephonically with the parties. The Oneida Judiciary Rules of Civil Procedure provides that the Court may allow a party to appear by telephone if requested in writing and submitted at least seven (7) days before a hearing or

proceeding. [8 O.C. 803.29-1(c)]. Although this portion of the Rule does not specifically require the request to appear by telephone to be submitted in writing at least seven (7) days before a hearing, these provisions are still required by the Oneida Judiciary Rules of Civil Procedure.

Section 1.9 of the Rule addresses ex-parte communication. The Oneida Tribal Judiciary Canons of Judicial Conduct provide requirements for judges to follow in regard to ex-parte communication. [8 O.C. 802 1.12.2]. A judge is not allowed to initiate, permit, condone, or consider ex-parte communications with parties, counsel or interested persons, or other communications made to the Judge outside the presence of the parties and their lawyers, concerning a pending or impending matter, except that the following types of ex-parte communications may be allowed, if in accordance with adopted Judiciary regulations:

- Deliberations with other Judges seated on the same panel of Judges, if applicable.
- Communication for non-substantive matters such as for scheduling, administrative, or emergency purposes.
- Consultation with court staff and court officials whose functions are to aid the Judge in carrying out the Judge's adjudicative responsibilities.
- Consultation with other Judges on pending matters, but not with any Judge that has been disqualified from hearing the matter, or that would have appellate jurisdiction over the matter.
- Communications with a party or attorney where the matter does not and would not involve adversarial proceedings (e.g. name changes).
- Written advice from a disinterested expert on law or tribal custom or tradition, or on other sources of applicable law; where the parties are given written notice and afforded a reasonable opportunity to object and/or respond to such information.
- A Judge may consult ethics advisory committees, outside counsel, or legal experts concerning compliance with these Canons, or regarding the compliance of any lawyer or advocate with applicable Rules of Conduct or Ethics.
- Other communications as allowed by specialized local rules; for example, in Peacemaking, where the Peacemaker has a more involved role. [8 O.C. 802 1.12.2].

Section 1.9 of the Rule provides specialized local rules as referenced in the Oneida Tribal Judiciary Canons of Judicial Conduct. The Rule confirms that ex-parte communication, unless otherwise permitted by law, is forbidden, but then provides exceptions to the prohibition of ex-parte communication. [see Rule 1.9-2]. Section 1.9-2(a) of the Rule provides an exception to the prohibition of ex-parte communication when a party fails to appear at a court hearing where the parties have been properly noticed, and then allows the Court to speak on the record with the party or parties who appear. Additionally, Section 1.9-2(b) of the Rule provides an exception for when a party believes that sharing the communication with the other party or parties would place a party or a child in danger of physical harm. The Oneida Tribal Judiciary Canons of Judicial Conduct further state that a judge may disclose information where disclosure is necessary to protect the health or safety of the Judge or another person. [8 O.C. 802 1.9.2].

Section 1.10 of the Rule provides for peacemaking and mediation. The Judiciary law creates a Peacemaking and Mediation Division under the jurisdiction of the Trial Court in an effort to provide a forum for the use of peacemaking and mediation to resolve disputes in a fair manner. [8 O.C. 801.6-1]. The Judiciary law also provides that the Trial Court shall ensure that, where

necessary, procedural rules governing the operation of peacekeeping and mediation are promulgated in accordance with laws of the Nation. [8 O.C. 801.6-1(a)]. Section 1.10 of the Rule provides such procedural rules governing the operation of peacekeeping and mediation by providing the following:

- The application process for prospective peacemakers and/or mediators from outside of the Oneida Nation Judiciary [see Rule 1.10-1];
- The process for the appointment of peacemakers and/or mediators [see Rule 1.10-2];
- Provisions governing the conduct and duties of peacemakers and/or mediators [see Rule 1.10-3];
- Requirement that a peacemaker and/or mediator maintain the ethical principles of the rules of conduct set forth in the Rule or else be subject to discipline by the Trial Court, as well as the Trial Court's process for handling complaints against a peacemaker and/or mediator [see Rule 1.10-4]; and
- Details regarding the compensation of peacemakers and/or mediators [see Rule 1.10-5].

Section 1.11 of the Rule provides for contempt. The Oneida Judiciary Rules of Civil Procedure states that direct contempt is contempt committed in the presence of the Court or so near in presence as to be disruptive of the judicial proceedings, and such may be adjudged and punished summarily. [8 O.C. 803.26-3(a)]. Section 1.11-1 of the Rule provides a procedure for addressing direct contempt which includes provisions on a warning given after a contemptuous action depending on the severity of the action, the ability to fine the individual for contempt in accordance with section 803.26-2 of the Oneida Judiciary Rules of Civil Procedure, the ability to take a recess after a finding of contempt, and the requirement that written orders of contempt be in accordance with section 803.31-1(f) of the Oneida Judiciary Rules of Civil Procedure.

Section 1.11-2 of the Rule provides a procedure for indirect contempt. The Oneida Judiciary Rules of Civil Procedure provide that indirect contempt may be determined after a hearing in which the person accused of contempt is given notice and an opportunity to be heard. [8 O.C. 803.26-3(b)]. Section 1.11-2 of the Rule provides the procedure for holding a hearing to resolve an issue of indirect contempt. Section 1.11-2(b)(5)(f) of the Rule provides that after the parties have been heard, the Trial Court may allow the person the opportunity to comply with the Trial Court order which is consistent with the provisions of section 803.26-3(b)(1) of the Oneida Judiciary Rules of Civil Procedure. Additionally, both section 803.26-3(c) of the Oneida Judiciary Rules of Civil Procedure and section 1.11-2(a) of the Rule allow the Court, in its discretion or on motion by a party, to resolve issues of indirect contempt through receipt and deliberation of briefs rather than a hearing.

Section 1.13 of the Rule provides details regarding witnesses. Testimony by witnesses is briefly discussed in the Oneida Judiciary Rules of Civil Procedure which provides requirements that witness testimony be taken in open Court unless a law or rule adopted by the Nation provides otherwise [8 O.C. 803.23-1], that a solemn affirmation suffices for an oath [8 O.C. 803.23-2], and that the Court may appoint an interpreter [8 O.C. 803.23-4]. The Oneida Judiciary Rules of Evidence goes into greater detail regarding witnesses. [8 O.C. 804.9]. The Oneida Judiciary Rules of Evidence contains provisions regarding:

- The competency of a witness to testify in general [8 O.C. 804.9-1];
- The need for personal knowledge [8 O.C. 804.9-2];

- The requirement of an oath or affirmation to testify truthfully [8 O.C. 804.9-3];
- The use of an interpreter [8 O.C. 804.9-4];
- A judge's competency as a witness [8 O.C. 804.9-5];
- The impeachment of a witness [8 O.C. 804.9-6];
- A witness's character for truthfulness or untruthfulness [8 O.C. 804.9-7];
- Impeachment by evidence of a criminal conviction [8 O.C. 804.9-8];
- Religious beliefs or opinions [8 O.C. 804.9-9];
- The mode and order of examining witnesses and presenting evidence [8 O.C. 804.9-10];
- Writing used to refresh a witness's memory [8 O.C. 804.9-11];
- A witness's prior statements [8 O.C. 804.9-12];
- The Court's calling or examining a witness [8 O.C. 804.9-13]; and
- Excluding witnesses [8 O.C. 804.9-14].

The Oneida Judiciary Rules of Evidence specifically provides that the Court shall exercise reasonable control over the mode and order of examining witnesses as to make those procedures effective for determining the truth, avoid wasting time, and protect witnesses from harassment or undue embarrassment. [8 O.C. 804.9-10(a)(1)-(3)]. Section 1.13-1 of the Rule provides that a witness shall be examined from the counsel table, except when handling exhibits, and that a witness shall not be crowded during examination. Section 1.13-2 of the Rule then provides that witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears. Both sections of the Rule further the Oneida Judiciary Rules of Evidence's requirement that the court protect witnesses from harassment or undue embarrassment. The Rule then goes on to discuss the prohibition of children being present in the courtroom and participating in proceedings as a witness, and exceptions to when a child may participate as a witness. [see Rule 1.13-4, 1.13-5, 1.13-6].

Section 1.14 of the Rule provides additional details regarding garnishments. The Nation's Garnishment law provides an effective mechanism for creditors to access an employee's income for reduction of personal debt. [2 O.C. 204.1-1]. The Garnishment law includes provisions that provide for:

- garnishment action procedure [2 O.C. 204.5];
- garnishment to collect debt owed to the Nation [2 O.C. 204.6];
- the recognition of child support orders [2 O.C. 204.7];
- discharge from employment [2 O.C. 204.8]; and
- appeals [2 O.C. 204.9].

The Garnishment law provides that the Judiciary shall hold a garnishment hearing within sixty (60) days of receiving the completed petition. [2 O.C. 204.5-4]. Section 1.14-2 of the Rule clarifies that garnishment hearings will be held on the second and fourth Wednesday of each month at the Judiciary. Section 1.14-3 of the Rule then provides more specific details as to how the Trial Court will conduct garnishment hearings in accordance with the Garnishment law. Section 1.14-3(k) of the Rule also confirms the duty of the Trial Court to provide the Accounting Department a copy of the garnishment order after the time frame for appeals has been exhausted, as required by section 204.5-7 of the Garnishment law.

Section 1.15 of the Rule provides for closed hearings and/or records. The Judiciary law provides that the proceedings of the Trial Court and Court of Appeals shall be public and members of the general public may freely attend the same, except for peacemaking or mediation proceedings or if expressly prohibited by law; provided that, in any case where the presiding Judge determines that there are safety or confidentiality concerns the Judge may exclude from the proceedings all individuals not necessarily present as parties or witnesses. [8 O.C. 801.4-4]. Additionally, the Oneida Judiciary Rules of Civil Procedure provides that a witnesses' testimony shall be taken in open Court unless this Law or other rules adopted by the Tribe provide otherwise, as well as that the records of all hearings and matters shall be available except where they are prohibited from disclosure by law, court order, or rule. [8 O.C. 803.23-1, 803.32-2].

Section 1.15-1 of the Rule provides that all hearings involving a juvenile shall be closed and the records sealed. The Oneida Judiciary Rules of Civil Procedure provides an exception to its open record policy by stating that records of cases involving juveniles shall remain confidential and shall only be viewed by the parties or the legal guardian of a party who is a minor and their attorney or advocate, Judges and staff assigned to the case, and those other persons who first obtain a written release from a party to view material contained in the record. [8 O.C. 803.32-2(b)(1)].

Section 1.15-2 of the Rule provides that the Trial Court may close a hearing, at the request of any party or on its own motion, where the safety of a party, witness, or other individual may be in jeopardy or for good cause in compelling circumstances, noting that all records from a closed hearing shall remain sealed. The Oneida Judiciary Rules of Civil Procedure provides that at the request of any party or on its own motion, the Court may seal any part of a case file, preventing public disclosure. [8 O.C. 803.32-(b)(3)]. The Oneida Judiciary Rules of Civil Procedure then goes on to provide that a file or part of a file may only be sealed where the safety of a party, witness or other individual may be in jeopardy if the material is not placed under seal. [8 O.C. 803.32-(b)(3)]. Section 1.15-2 of the Rule provides more circumstances for when a file may be sealed than section 803.32-2(b)(3) by allowing for a hearing and records to be sealed “*for good cause in compelling circumstances.*” The Oneida Judiciary Rules of Civil Procedure allows a rule to prohibit further circumstances in which a record shall be sealed. [8 O.C. 803.32-2].

Section 1.16 of the Rule provides for temporary restraining orders. The Oneida Judiciary Rules of Civil Procedure allows the Court to issue a temporary restraining order without written or oral notice to the adverse party or its attorney or advocate if certain circumstances are met. [8 O.C. 803.35-2(a)]. The Law then goes on to state that on two (2) days' notice to the party who obtained the order without notice—or on shorter notice set by the Court—the adverse party may appear and move to dissolve or modify the order, and that the Court shall then hear and decide the motion as promptly as justice requires. [8 O.C. 803.35-2(a)]. Section 1.16-1 of the Rule further provides that when a temporary restraining order is issued without notice, a hearing shall be held within three (3) business days of such issuance. Section 1.16-2 of the Rule also provides that if a party has violated a temporary restraining order, the non-violating party may file a request with the Trial Court to find the other party in contempt. Refusal to obey any order or judgment of the Court is listed as a basis for finding an individual in contempt in the Oneida Judiciary Rules of Civil Procedure. [8 O.C. 803.26-1(c)].

Section 1.17 of the Rule provides further details on citation hearings. The issuance of citations is referenced throughout various laws of the Nation. The following laws of the Nation require that a citation pre-hearing date with the Judiciary Trial Court be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued:

- Public Use of Tribal Land law [6 O.C. 609.7-2];
- All-Terrain Vehicle law [4 O.C. 410.7-2];
- Water Resources law [4 O.C. 409.6-5];
- On-Site Waste Disposal law [4 O.C. 407.7-6];
- Hunting, Fishing, and Trapping law [4 O.C. 406.10-5];
- Well Abandonment law [4 O.C. 404.7-4];
- Tribal Environmental Response law [4 O.C. 401.10-3]; and
- Domestic Animals law [3 O.C. 304.13-2].

Additionally, the Recycling and Solid Waste Disposal law [4 O.C. 405.12-6], and the Non-Metallic Mine Reclamation law [4 O.C. 402.23-3] provide that citations may be issued, but do not specify a timeframe or process for handling citations.

Section 1.17-1 of the Rule confirms that citation pre-hearing dates shall occur at least thirty (30) days after a citation is issued, and clarifies the citation pre-hearings shall be held the third Thursday of each month at the Judiciary. Section 1.17-1(b)-(c) of the Rule then provides more specific details on the procedure the Trial Court will use when conducting citation hearings.

Section 1.18 of the Rule provides information regarding probate hearings. Section 1.18-1(a) of this Rule provides that this section, section 1.18, shall not take effect until such a time as the probate administration rules are promulgated by Land Management and the Oneida Land Commission and adopted by the Oneida Business Committee in accordance with resolution BC-05-19-18-A.

Section 1.18-1 of the Rule provides that if the Trial Court Rules or other laws of the Nation regarding probate lack definition, procedure, or legal precedent in a probate matter, the Trial Court shall use Wisconsin's Probate Code and its related chapters for guidance in accordance with section 801.2-6 of the Judiciary law which allows for the Judges to refer to established Wisconsin or federal case law precedent or laws for guidance in a situation where precedent for a particular matter has not been established. This is consistent with the Real Property law which provides that in instances where the Nation lacks definition, procedure, or legal precedent in a probate matter, the Nation shall use Wisconsin's Probate Code and its related chapters for guidance. [6 O.C. 601.4-5].

Section 1.18-2 of the Rule provides that the Judiciary shall hear and administer disputed probate estates, probate estates requiring appointment of a guardian ad litem, and probate estates in which Land Management seeks appointment as a personal representative. Section 1.18-3 and 1.18-4 then provide more specific details on the procedure the Trial Court will use to hold probate hearings. Sections 1.18-2, 1.18-3, and 1.18-4 of the Rule all conflict with the currently effective portions of the Real Property law.

Amendments to the Real Property law were most recently adopted by the Oneida Business Committee through resolution BC-05-09-18-A. Although section 601.8-2 of the version of the Real Property law adopted through resolution BC-05-09-18-A does identify that the Judiciary shall

hear and administer disputed probate estates or matters requiring appointment of a guardian ad litem, as well as those cases in which Land Management seeks appointment as a personal representative, this provision of the Real Property law has never taken effect.

Resolution BC-05-09-18-A identified that the amendments shall not affect the provisions of section 601.8 that are currently in effect until probate rules are promulgated and effective, in accordance with resolution BC-06-14-17-A. Resolution BC-06-14-17-A further recognizes that the Division of Land Management and the Oneida Land Commission had not yet promulgated the rules governing probate administration as required by law, and then provides provisions to replace section 601.8 of the Real Property law until the probate rules are promulgated and effective. The provisions provided by resolution BC-06-14-17-A only allow any declaratory ruling made by the Oneida Land Commission to be appealed to the Judiciary within thirty (30) days from the date of the ruling, as well as provide a party the ability to petition the Judiciary to reopen the case within three (3) years after the declaratory ruling has been mailed out if certain circumstances can be proved.

The language provided in section 601.8 of the version of the Real Property law adopted through BC-05-09-18-A will only go into effect when the probate administration rules promulgated by Land Management and the Oneida Land Commission are adopted and take effect. At that such time, section 1.18 of this Rule shall take effect.

Section 1.19 of the Rule defines what constitutes the Judge's signature. The Rule provides that a Trial Court Judge's signature shall mean:

- The Judge's name hand written by that Judge;
- The Judge's name signed by electronic means; or
- The Judge's signature stamp if the following conditions are met:
 - An emergency exists, or the Trial Court Judge is unavailable to personally sign his or her name;
 - The use of the signature stamp has been pre-approved and authorized by the Trial Court judge; and
 - Authorization date and time is noted below the signature line. *[see Rule 1.19-1]*.

The Oneida Judiciary Rules of Civil Procedure requires that all decisions be signed by the Judge assigned to the case and filed with the Clerk. *[8 O.C. 803.31-1(a)]*.

Section 1.20 of the Rule provides for notice of appearances. Section 1.20-4 of the Rule provides that counsel may not withdraw from a case where a motion is pending, or a hearing has been scheduled except upon motion and order of the Court. The Professional Conduct for Attorneys and Advocates law provides the conditions for when counsel may withdraw from representing a client. *[8 O.C. 810.14-2]*. Additionally, the Professional Conduct for Attorneys and Advocates law provides that counsel must comply with applicable court rules requiring notice to or permission of the Judiciary when terminating a representation. *[8 O.C. 810.14-3]*.

Conclusion

Adoption of the Judiciary law Rule No. 1 – Trial Court Rules would not conflict with any of the Nation's laws.

Financial Analysis for Trial Court Rules

Type of Cost	Description/Comment	Dollar Amount
Start Up Costs		\$0
Personnel		\$0
Office		\$0
Documentation Costs		\$0
Estimate of time necessary for an individual or agency to comply with the rule after implementation		\$0
Other, please explain		N/A
Total Cost (Annual)		\$0

9/4/2019

MEMORANDUM

TO: Legislative Operating Committee (LOC)
 FROM: Hon. Denice E. Beans, Trial Court
 Hon. Layatalati Hill, Trial Court
 Hon. John Powless, III, Trial Court
 DATE: September 4, 2019
 RE: Trial Court Rules: Public Meeting Comment Review

On July 23, 2019, a public meeting was held regarding the proposed Trial Court Rules. This memorandum is submitted as a review of the oral and written comments that were presented at the public meeting and submitted within the public comment period.

NOTE: Two individuals attended the Public Comment Meeting. One person gave two comments, below, the other person stated they had no comments and were there to observe the procedure for holding a Public Meeting for Comments.

Comment 1. – Continuance

1.6 Continuance

1.6-2. Continuances shall only be granted by the Trial Court based on a written request of a party, a stipulation of the parties, or on the Trial Court's own motion.

Wes Martin (oral): Thank you my name is Wes Martin, Oneida GTC Legal Office and uh I'm just here to gather information. This is the first time I was aware of this type of hearing and usually were no public hearing. But the only uh comment I had was to was the 1.6 it was per granting of continuances (coughs) and um it um uh I guess is in how, how is the Court going to uh keep in the way I read is that all written requests for continuance have to be in writing uh 1.6 continuance to 6.2. Um and then um I guess the next question, I guess is if the Court hold that to be uh we come to Court and all of sudden text that nobody can show up for whatever reason. Uh, can we make an oral request at that point instead of written? What a written on the follow because the way I read this is any continuance has to be in writing. Our request for continuance has to be in writing. Then I guess, it does have some language that Trial Court on it's own motion can grant a continuance but I just wanted to be cognit on here, it saying but I didn't receive any written notices for a continuance if we come in and request it for whatever reason. Does the can Court stand, the last time this has to be in writing or there can be some way for whatever reasons we need it. Uh again like a text while we are sitting out there and all of sudden your client for whatever got in a car accident, sick or you know. Is that Court hold that's the only comment I had on that one.

Response

The commenter asks for clarification on whether all motions for continuances have to be in writing. The purpose of these rules is to supplement the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court. The Oneida Judiciary Rules of Civil Procedure section 803.7-4 requires a motion to be in writing unless made during a hearing or trial. Therefore, a motion for a continuance may be made verbally at a hearing or trial. The commenter asks for clarification. Based on the comment, there are no suggested changes.

Comment 2. – Probate Representation

1.18 Probate Hearings

1.18-1. If the Trial Court Rules or other Laws of the Oneida Nation regarding probate lack definition, procedure, or legal precedent in a probate matter, the Trial Court shall use Wisconsin’s Probate Code and its related chapters for guidance in accordance with 8 O.C. chapter 801.2-6.

- (a) **This section, 1.18, will not take effect until probate administration rules are promulgated by Land Management and the Oneida Land Commission and adopted by the Oneida Business Committee in accordance with Resolution BC-05-09-18-A.**

1.18-2. The Judiciary shall hear and administer disputed probate estates, probate estates requiring appointment of a guardian ad litem and probate estates in which Land Management seeks appointment as a personal representative.

1.18-3. The Trial Court shall conduct the proceeding on the record informally, allowing each person to present arguments and proofs and to examine witnesses to the extent reasonably required for full and true disclosure of the facts.

- (a) **The Trial Court may admit any written, oral, documentary, or demonstrative evidence that is:**
 - (1) **Relevant, reliable, and probative;**
 - (2) **Not privileged under the Oneida Nation’s Laws; and**
 - (3) **Not unduly repetitious or cumulative.**
- (b) **The Trial Court may exclude evidence if it overly confuses the issues or causes burdensome delay.**
- (c) **The Trial Court may consider the fact that evidence is hearsay when determining its probative value.**
- (d) **The Trial Court will determine the weight given to any evidence admitted.**
- (e) **Any party objecting to the admission or exclusion of evidence must concisely state the grounds. A ruling on every objection must appear in the record.**

1.18-4. The procedure for the probate hearing shall be as follows:

- (a) **All persons present for the hearing shall sign in on the sheet provided inside the courtroom. All persons signed in shall have an opportunity to address the Trial Court, as described below, in the order in which they signed in.**
- (b) **The Court Clerk will call the hearing to Order stating:**
 - (1) **The full name of the Court**
 - (2) **The name of the presiding Judge**
 - (3) **The case number**

- (4) A statement of authority and jurisdiction
- (c) The Trial Court reads the purpose of the hearing.
- (d) If a personal representative has not been appointed, the Trial Court shall appoint a personal representative.
 - (1) If a personal representative has been appointed, the Trial Court shall hear objections to the appointment, if any, from any party who has an interest in the estate.
 - (2) The Trial Court shall either affirm the appointment or appoint another person.
 - (3) The Trial Court may require the personal representative to post a bond—a kind of insurance policy that protects the estate from losses the personal representative may cause it, up to a certain dollar amount depending on the size of the estate.
 - (4) The personal representative shall identify all the assets of the person who died, manage those assets throughout the probate process, pay any outstanding debts, taxes or estate expenses, make any distributions that are required by Tribal or state law, and distribute any remaining assets to the decedent's heirs or designees.
 - A. The personal representative shall provide all the above information to the Trial Court.
 - (5) Funeral costs have priority in settling a probate case. Then come taxing authorities, secured creditors and unsecured creditors who have made a claim. Finally, any remaining assets are distributed to the beneficiaries.
- (e) Legal Notices:
 - (1) The Trial Court shall ensure that a formal legal notice was sent to beneficiaries named in the will, if any, and to heirs under state law (the people who inherit if there is no valid will).
 - (2) The Trial Court shall ensure that notices were sent to known creditors, and a published legal notice in the Newspaper of the Oneida Nation as well as any other local newspaper in the area where the decedent resided or last known address or where the property is located to alert other creditors.
 - A. The first publication must be published within fifteen (15) days of filing with the Trial Court. This notice shall be published at least two (2) times within a thirty (30) day period. The notice shall include the deadline for creditors to file a claim. The deadline shall be three (3) calendar months from the date of the first publication.
 - B. Creditors must file any claims against the estate within three (3) months of notification. Once the three (3) month period has passed, creditors are prohibited from making claims against the estate.
- (f) If there is a will, it must be proven valid. A will may be proven valid by the statement from one or more of the witnesses, in one of these forms:
 - (1) a notarized statement, which witnesses signed when they witnessed the will,
 - (2) a sworn statement signed by a witness now,

- (3) court testimony from a witness, or**
- (4) any other method the Trial Court deems valid.**
- (g) The persons signed in may address the Trial Court.**
- (h) A copy of the order will be mailed to all parties and those with an interest in the estate.**

Wes Martin (oral): And uh the other comment 1.18 probate hearings um I know we get uh or I've been getting requests and we've been referring them to Land Management. Um and we don't, I think one came back uh there was a dispute um at that point, can we as our office, can our office get involve if it's in the Court system here and out of Land Management or is there some restrictions? Um for us representing people in probates uh if there's a dispute and it comes into the Judiciary cause usually we take cases if there are at the Judiciary but if we're not involve on the onset, can we still get involve if it's transferred from Land Manage... I don't know how many cases you have. If there's any disputes. I think we had one that came in and ah then they settled it. But I I'm just it was always that, was always a question whether or not. And we get involved once if there's a dispute with probate. Dem are the only two comments I have today.

Response

The commenter is seeking to know if his office, the GTC Legal Resource Center, can represent a party to a probate action when it is before the Oneida Judiciary if they have not been involved in the case before it came to the Oneida Judiciary. These rules do not address who and when a person may be represented by the GTC Legal Resource Center in a probate action. The GTC Legal Resource Center should make its own determination on who and when it should represent a person. Based on the comment, there are no suggested changes.

NOTICE OF
PUBLIC MEETING

TO BE HELD
July 23, 2019 at 9:00 a.m.

IN
Courtroom B of the Oneida Judiciary
LOCATED AT
2630 W. Mason Street, Green Bay, WI 54303

In accordance with the Judiciary Law and Administrative Rulemaking law, the Trial Court is hosting this Public Meeting to gather feedback from the community regarding the following rule:

TOPIC: Trial Court Rules

This is a proposal to adopt rules that supplement the Oneida Judiciary Rules of Civil Procedure and other laws governing the Trial Court.

To obtain copies of the Public Meeting documents for this proposal, please visit
<https://oneida-nsn.gov/government/register/public-meetings/>.

**PUBLIC COMMENT PERIOD
OPEN UNTIL July 30, 2019.**

During the Public Comment Period, all interested persons may submit written comments. These may be submitted to the Trial Court by U.S. mail, interoffice mail, e-mail or fax.

Oneida Judiciary - Trial Court
PO Box 19
Oneida, WI 54155
Email: kdanfor3@oneidanation.org
Telephone: (920) 496-7200
Fax: (920) 496-7229

<https://oneida-nsn.gov/government/business-committee/minutes/>

Altar built on Mauna Kea after state dismantles structures

HILO, Hawaii (AP) ~ A new altar has been built near the summit of Mauna Kea, less than a day after state officials dismantled two other "ahu" in preparation for the construction of one of the most advanced telescopes in the world.

The new ahu isn't directly blocking access to the site where the Thirty Meter Telescope is planned, the Hawaii Tribune-Herald reported.

The two dismantled ahu were blocking access to the site.

The new ahu is across the road from the Maunakea Visitor Information Station where a structure called Hale o Kukiaimauna stood until state officials took it down Thursday.

State officials announced they were giv-

ing permission for construction to begin on the Thirty Meter Telescope.

The decision came after the state Supreme Court in October upheld the project's permits.

Gov. David Ige said the state took down four unauthorized structures from the mountain on Thursday.

Native Hawaiian activists and telescope opponents said they used the structures for years and their removal was discriminatory and amounted to desecration.

The new ahu was not built with a permit. Opponents say the telescope will defile sacred land atop Mauna Kea, the state's highest peak and a place of religious importance to Native Hawaiians.

**LEGISLATIVE OPERATING COMMITTEE
COMMUNITY OUTREACH EVENTS**

SANCTIONS AND PENALTIES LAW

At the March 17, 2019, General Tribal Council meeting the General Tribal Council directed that the consideration of the adoption of the proposed Sanctions and Penalties law be deferred until the General Tribal Council has additional time to consider it and have input.



Join the Legislative Operating Committee (LOC) at the following community outreach events to share ideas, ask questions, and provide input on the proposed Sanctions and Penalties law:

DATE	TIME	LOCATION
July 11, 2019	Prior to General Tribal Council Meeting from 5:00 pm —6:00 pm	Radisson Hotel & Conference Center
July 17, 2019	12:00pm-1:00pm	Norbert Hill Center Business Committee Conference Room
August 9, 2019	8:00am-9:00am	Oneida Veteran's Breakfast Vets Office, Riverdale Dr, Oneida
August 15, 2019	12:00pm-3:00pm	Oneida Farmer's Market Water Circle Place, Oneida

Additional Opportunity for Input on the Sanctions and Penalties Law

If you are unable to attend a community outreach event to provide input, the LOC is offering the additional opportunity to provide comments and input through written submissions. The LOC will be accepting written thoughts and comments from the community until August 31, 2019. Written comments can be submitted via e-mail to LOC@oneidanation.org or in person to the Legislative Reference Office located in the Norbert Hill Center.



-FOR MORE INFORMATION-
www.oneida-nsn.gov/Register/FeaturedLegislation or contact Oneida Nation Legislative Reference Office located in the Norbert Hill Center, PO Box 365, Oneida, Wisconsin 54155
Email: LOC@oneidanation.org Phone: 920-869-4376

Public Meeting Sign-In Sheet
Trial Court Rules
July 23, 2019 – Oneida Judiciary, Courtroom B

	Name	Phone or Email
1	Wb Martin	920-869-9014
2	Carol Silva	496-5319
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September 2019

September 2019

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October 2019

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SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 1	2	3	4 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting (BC_Conf_Room) 9:00am LOC Meeting	5	6	7
8	9	10	11	12	13 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	14
15	16 6:00pm GTC Budget Meeting (Radisson)	17	18 9:00am LOC Meeting (BCCR) - LOC	19	20	21
22	23	24	25	26 8:30am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	27	28
29	30	Oct 1	2	3	4	5

October 2019

October 2019

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November 2019

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24	25	26	27	28	29	30

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 29	30	Oct 1	2 9:00am LOC (BC_Conf_Room) - LOC 9:00am LOC Meeting (BC_Conf_Room) 9:00am LOC Meeting	3	4	5
6	7 12:00pm Sanctions and Penalties Law Community Outreach: Elder Congregate Meal Site	8	9	10	11 1:30pm LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	12
13	14	15	16 9:00am LOC Meeting (BCCR) - LOC	17	18 11:00am Sanctions and Penalties Law Community Outreach: SEOTS (SEOTS) - Clorissa N. Santiago	19
20	21	22	23	24 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	25	26
27	28	29	30	31 9:00am LOC Work Session (BC_Exec_Conf_Room) - Clorissa N. Santiago	Nov 1	2